

**SESSION LAWS**  
**OF**  
**HAWAII**  
**PASSED BY THE**  
**TWENTY-EIGHTH STATE LEGISLATURE**  
**STATE OF HAWAII**

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**REGULAR SESSION**  
**2016**

Convened on Wednesday, January 20, 2016 and  
Adjourned sine die on Thursday, May 5, 2016

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**SECOND SPECIAL SESSION**  
**2016**

Convened on Tuesday, July 12, 2016 and  
Adjourned sine die on Wednesday, July 20, 2016

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Revisor of Statutes  
State of Hawaii  
Honolulu, Hawaii

## PREFACE

This volume contains all of the laws enacted by the Hawaii State Legislature during the Regular and Second Special Sessions of 2016. This volume does not include matter from the First Special Session of 2016 because that session dealt only with the consent of judicial nominees by the Senate.

The text of the laws is printed in full except as provided herein. Statutory material that is being repealed is either bracketed or bracketed and stricken. New material is indicated by underscoring. However, as authorized by Section 23G-16.5, Hawaii Revised Statutes (HRS), the text is edited to omit the bracketed material for HRS sections that are being repealed in their entirety and to omit the underscoring for entirely new HRS sections. With the exception of the foregoing and certain obvious typographical errors that have been corrected, the text of the laws appears as enacted.

Explanatory notes appear at the end of the corresponding laws. The notes clarify editorial changes and inconsistencies in text.

Charlotte A. Carter-Yamauchi  
Revisor of Statutes

Honolulu, Hawaii  
July 20, 2016

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Brian Schatz  
Mazie Hirono

House of Representatives:  
Tulsi Gabbard  
Mark Takai<sup>1</sup>

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**STATE EXECUTIVE OFFICERS**

Governor of Hawaii..... David Y. Ige  
Lieutenant Governor..... Shan S. Tsutsui

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REGULAR SESSION 2016**

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Vice President..... Will Espero  
Clerk..... Carol T. Taniguchi

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	Nineteenth District—(Oahu) Will Espero (D)

<sup>1</sup> Deceased July 20, 2016.

<sup>2</sup> Appointed to seat vacated by Gilbert Kahele.

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Twenty-Fourth District—(Oahu)  
Jill N. Tokuda (D)

Twenty-Fifth District—(Oahu)  
Laura H. Thielen (D)

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 Vice Speaker ..... John M. Mizuno  
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**Session Laws of Hawaii  
Passed By The  
Twenty-Eighth State Legislature  
Regular Session  
2016**

**ACT 1**

H.B. NO. 2720

A Bill for an Act Making Appropriations to Provide for the Expenses of the Legislature, the Auditor, the Legislative Reference Bureau, the Ombudsman, and the Ethics Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$8,878,376 or so much thereof as may be necessary to the senate for the following expenses:

- (1) The sum of \$7,615,876 for defraying any and all session and non-session expenses of the senate up to and including June 30, 2017, including the 2016 regular session, twenty-eighth legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 2016 and 2017 regular sessions;
- (2) The sum of \$1,150,000 for defraying the expenses of the legislative information system for cost items such as hardware, software, consultants, installation, materials, supplies, and other related costs associated with the legislative system that have been or will be incurred; and
- (3) The sum of \$112,500 for defraying the cost of the legislative broadcasting program to pay for the production and distribution of television broadcasts of legislative proceedings.

The sum appropriated in this section shall be expended by the senate.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$12,130,374 or so much thereof as may be necessary to the house of representatives for the following expenses:

- (1) The sum of \$11,079,450 for defraying any and all session and non-session expenses of the house of representatives up to and including June 30, 2017, including the 2016 regular session, twenty-eighth legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 2016 and 2017 regular sessions;
- (2) The sum of \$938,424 for defraying the expenses of the legislative information system for cost items such as hardware, software, consultants, installation, materials, supplies, and other related costs as-

## ACT 1

sociated with the legislative information system that have been or will be incurred; and

- (3) The sum of \$112,500 for defraying the cost of the legislative broadcasting program to pay for the production and distribution of television broadcasts of legislative proceedings.

The sum appropriated in this section shall be expended by the house of representatives.

SECTION 3. Payment of expenses of the senate during the interim between the 2016 and 2017 regular sessions shall be made only with the approval of the president of the senate, and payment of expenses of the house of representatives during the interim between the 2016 and 2017 regular sessions shall be made only with the approval of the speaker of the house of representatives.

SECTION 4. Before January 18, 2017, the senate and the house of representatives shall each have their accounts audited, and a full report of the respective audits shall be presented to the senate and to the house of representatives convening on January 18, 2017.

SECTION 5. Unless otherwise prescribed by law, the expenses of any member of the legislature while traveling abroad on official business of the legislature shall be \$145 a day as authorized by the president of the senate and the speaker of the house of representatives.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,978,549 or so much thereof as may be necessary to the office of the auditor for the following expenses:

- (1) The sum of \$2,828,549 for defraying the expenses of the office of the auditor during fiscal year 2016-2017; and
- (2) The sum of \$150,000 during fiscal year 2016-2017 for:
  - (A) Performing special studies;
  - (B) Improving capabilities for planning, programming, and budgeting;
  - (C) Fulfilling other special requests made of the auditor by the legislature or jointly by the president of the senate and the speaker of the house of representatives;
  - (D) Legislative studies and contractual services for those studies; and
  - (E) Such other purposes as may be determined by the joint action of the president of the senate and the speaker of the house of representatives.

The sum appropriated in this section shall be expended by the auditor.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,800,000 or so much thereof as may be necessary to the office of the auditor during fiscal year 2016-2017 to be deposited into the audit revolving fund established pursuant to section 23-3.6, Hawaii Revised Statutes.

SECTION 8. There is appropriated out of the audit revolving fund the sum of \$6,300,000 or so much thereof as may be necessary to the office of the auditor during fiscal year 2016-2017 for the office to conduct or complete its audit functions as provided by law.

The sum appropriated shall be expended by the office of the auditor.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,463,419 or so much thereof as may be necessary to the legislative reference bureau for defraying the expenses of the legislative reference bureau during fiscal year 2016-2017, including equipment relating to computer systems programming and operations.

The sum appropriated in this section shall be expended by the legislative reference bureau.

SECTION 10. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,216,970 or so much thereof as may be necessary to the office of the ombudsman for defraying the expenses of the office during fiscal year 2016-2017.

The sum appropriated in this section shall be expended by office of the ombudsman.

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,009,695 or so much thereof as may be necessary to the state ethics commission for defraying the expenses of the office during fiscal year 2016-2017.

The sum appropriated in this section shall be expended by the state ethics commission.

SECTION 12. There is appropriated out of the general revenues of the State of Hawaii the following sums or so much thereof as may be necessary to be expended for the purpose of accrued vacation payments and vacation transfer payments for any employee leaving the employ of the senate, house of representatives, office of the auditor, legislative reference bureau, office of the ombudsman, and state ethics commission:

<u>Expending Agency</u>	<u>Amount</u>
Senate	\$150,000
House of Representatives	\$224,524
Office of the Auditor	\$45,825
Legislative Reference Bureau	\$50,153
Office of the Ombudsman	\$11,662
State Ethics Commission	\$16,958

provided that the appropriate expending agency shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; and provided further that any unexpended funds shall lapse to the general fund on June 30, 2017.

SECTION 13. Except for moneys in the audit revolving fund, as of the close of business on June 30, 2017, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 14. Each section of this Act is declared to be severable from the remainder of this Act.

SECTION 15. This Act shall take effect upon its approval.

(Approved February 23, 2016.)

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Act 255, Session Laws of Hawaii 2012, amended the definitions of “the practice of nursing as a licensed practical nurse” and “the practice of nursing as a registered nurse” to include carrying out the orders of a licensed physician assistant practicing with physician supervision as required by chapter 453, Hawaii Revised Statutes, and acting as an agent of the supervising physician. The Act included a sunset provision calling for the repeal of the definitions on July 1, 2017; provided that the definitions would be reenacted in the form in which they read on the day prior to the Act’s effective date.

The legislature further finds that there has been ample time to evaluate the law and its effect on public health, and there has been no harm. The change made by Act 255, Session Laws of Hawaii 2012, has provided clarity and improved communication for all health care providers and patients impacted by the change.

The purpose of this Act is to allow changes made by Act 255, Session Laws of Hawaii 2012, to continue in perpetuity by removing the sunset provision.

SECTION 2. Act 255, Session Laws of Hawaii 2012, is amended by amending section 5 to read as follows:

~~“SECTION 5. This Act shall take effect upon its approval [and shall be repealed on July 1, 2017; provided that the definitions of “the practice of nursing as a licensed practical nurse” and “the practice of nursing as a registered nurse” under section 457-2, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act].”~~

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect upon its approval.

(Approved March 24, 2016.)

A Bill for an Act Relating to the Pacific International Space Center for Exploration Systems.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 201-77, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established the board of directors of the Pacific international space center for exploration systems, consisting of ~~[ten]~~ nine members, to include:

- (1) The executive director of the space center as an ex officio~~[ ]~~[ ] voting member;
- (2) The director of business, economic development, and tourism, or the director’s designated representative;

- (3) The president of the University of Hawaii, or the president's designated representative; and
- (4) Six members from government, industry, and academia, both national and international, with appropriate professional interests and backgrounds; and
- (5) ~~An invited representative from the National Aeronautics and Space Administration as an ex-officio nonvoting member,~~

to be appointed by the governor, pursuant to section 26-34; provided that of the members appointed under paragraph (4), two members shall be appointed from a list of nominees submitted by the president of the senate, two members shall be appointed from a list of nominees submitted by the speaker of the house of representatives, and two members shall be appointed by the governor.

The board shall select a chairperson from among its members."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved March 31, 2016.)

## ACT 4

S.B. NO. 2310

A Bill for an Act Relating to Domestic Abuse Protective Orders.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that mutual orders of protection are protective orders issued against both parties to a dispute. Usually mutual protective orders are issued after one of the parties petitions for a protective order. While protective orders are intended to protect a victim of abuse from imminent threat of abuse or further domestic abuse, mutual protective orders can present a variety of problems that may be contrary to the purpose of a protective order.

Mutual protective orders may trivialize the domestic abuse and may place blame on the victim rather than hold the abuser accountable. Instead, the victim may be stigmatized by the mutual protective order.

The purpose of this Act is to prohibit the court from granting mutual protective orders unless separate petitions are filed.

SECTION 2. Chapter 586, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§586- Mutual protective orders.** No protective order shall be entered against the plaintiff in the same petition unless:

- (1) The respondent properly files a separate petition; and
- (2) The plaintiff has reasonable notice of the filing of the separate petition."

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved April 11, 2016.)

### Note

- 1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Consumer Protection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 487-10, Hawaii Revised Statutes, is amended to read as follows:

**“§487-10 Investigators, appointment and powers.** The director shall appoint and commission one or more investigators as the exigencies of the public service may require. Persons appointed and commissioned under this section shall have and may exercise all the powers and authority of a police officer or of a deputy sheriff[-] in the service of process or in the service of subpoenas.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 11, 2016.)

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431:21-119, Hawaii Revised Statutes, is amended to read as follows:

**“~~§431:21-119~~ Issuance of new policies; removal of moratorium.** If residential property insurance is unavailable, as determined by the commissioner, due to a moratorium on the issuance of policies on property situated in lava zones where the mayor of the county of Hawaii has issued a proclamation declaring a state of emergency exists due to the threat of imminent disaster from a lava flow, the association shall remove its moratorium. Upon the moratorium’s removal, the association shall offer new policies and may provide a waiting period of no longer than six months for the policy coverage to take effect; provided that the residential property in the lava zone does not have current insurance.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 11, 2016.)

A Bill for an Act Relating to Consumer Protection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Legislature has created statutes of limitations to provide that a party may not initiate a court action if a certain period of time

has elapsed from when a claim has accrued. Hawaii common law, however, has consistently stated that despite these legislatively created limitations, the State may initiate and maintain actions without being subject to statutes of limitations. In recognition of this longstanding common law rule, the legislature in 1991 codified section 657-1.5, Hawaii Revised Statutes, to confirm that it would apply to the State unless another statute specifically designated the State as subject to a limitations period.

In the context of claims brought by the State and its agencies pursuant to chapter 480 of the Hawaii Revised Statutes, the Hawaii legislature has never specifically designated the State or its agencies as being subject to any limitation period. Consequently, no limitation period can apply to actions brought by the State under chapter 480, Hawaii Revised Statutes.

The purpose of this measure is to amend section 480-24, Hawaii Revised Statutes, to clarify that the statute of limitations governing chapter 480, Hawaii Revised Statutes, does not apply to the State and its agencies.

SECTION 2. Section 480-24, Hawaii Revised Statutes, is amended to read as follows:

**“§480-24 Limitation of actions.** [(a)] Any action to enforce a cause of action arising under this chapter shall be barred unless commenced within four years after the cause of action accrues, except as otherwise provided in [subsection (b) and] section 480-22. For the purpose of this section, a cause of action for a continuing violation is deemed to accrue at any time during the period of the violation.

[(b) The following shall toll the time for commencement of actions by the State under this chapter if at any time:

- (1) Any cause of action arising under this chapter accrues against any person, the person is out of the State, the action may be commenced within the terms respectively limited, after the return of the person into the State, and if, after the cause of action has accrued, the person departs from and resides out of the State, the time of the person's absence shall not be deemed or taken as any part of the time limited for the commencement of the action.
- (2) Any cause of action arising under this chapter accrues against any person, the person has petitioned for relief under the bankruptcy code, the time during which the bankruptcy case is pending shall not be deemed or taken as any part of the time limited for the commencement of the action.
- (3) Any cause of action arising under this chapter accrues against any person, there is a criminal action pending which arises out of the same occurrence, the time during which the criminal action is pending shall not be deemed or taken as any part of the time limited for the commencement of the action. As used in this paragraph, a criminal action is pending until its final adjudication in the trial court.]”

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 11, 2016.)



A Bill for an Act Relating to Board Member Terms for the Board of Nursing and the Board of Speech Pathology and Audiology.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The board of nursing and the board of speech pathology and audiology are the only two boards among the professional and vocational licensing division's twenty-five boards and commissions to have three-year terms for board members. Although members may be reappointed and serve two three-year terms consecutively, possibly serving a total of six years, this time is short compared to the other boards and commissions that allow for two four-year terms.

In addition to being consistent with other board member terms, longevity and continuity are key for board members to learn and acclimate themselves in order to become effective board members. Also, finding members who are willing to volunteer and give up time away from their paying jobs is often difficult. So once an individual is willing to devote the time and energy to being a board member, that member should be allowed to serve as much time as possible.

The legislature finds that the terms for members of the board of nursing and the board of speech pathology and audiology should be amended to provide continuity of effective board members and to be consistent with other boards and commissions under the professional and vocational licensing division of the department of commerce and consumer affairs.

The purpose of this Act is to amend the length of the terms of the members of the board of nursing and the board of speech pathology and audiology from three years to four years.

SECTION 2. Section 457-3, Hawaii Revised Statutes, is amended to read as follows:

**"§457-3 State board of nursing; appointment; term of office.** The board shall consist of nine members as follows:

- (1) Six shall be registered nurses, one of whom shall be licensed as an advanced practice registered nurse in this State;
- (2) One shall be a licensed practical nurse; and
- (3) Two shall be public members.

Both nursing education and direct providers of nursing services shall be represented on the board. The term of office for members of the board shall be ~~[three]~~ four years. No member shall be appointed to more than two consecutive terms or serve more than ~~[six]~~ eight consecutive years. Six members of the board shall be residents of the city and county of Honolulu and three shall be residents of counties other than the city and county of Honolulu."

SECTION 3. Section 468E-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Members shall serve for a term of ~~[three]~~ four years. Terms shall begin on the first day of the fiscal year and end on the last day of the fiscal year."

SECTION 4. This Act shall apply to the terms of members currently serving on the board of nursing and to the terms of members currently serving on the board of speech pathology and audiology.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.  
(Approved April 19, 2016.)

## ACT 9

H.B. NO. 2639

A Bill for an Act Relating to Wireless Telecommunications Service.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 269-16.93, Hawaii Revised Statutes, is amended as follows:

**“~~[[[§269-16.93]]]~~ Release of domestic ~~[violence]~~ abuse victims from shared wireless plans.** (a) All wireless telecommunications service providers shall release, without charge, penalty, or fee, any victim of domestic ~~[violence]~~ abuse from a shared or family wireless service contract involving the victim's abuser; provided that the victim submits an opt-out request in writing and with evidence of domestic ~~[violence]~~ abuse as documented by any of the following items:

- (1) Valid police report documenting an instance or series of instances of domestic ~~[violence];~~ abuse;
- (2) Order for protection granted pursuant to chapter 586; or
- (3) Signed affidavit from a licensed medical or mental health care provider, employee of a court acting within the scope of their employment, or social worker.

(b) ~~[Any]~~ When a victim of domestic ~~[violence who]~~ abuse submits an opt-out request to a wireless telecommunications service provider pursuant to subsection (a) ~~[may further request a substitute or new phone number or alternative telecommunications service. Upon such request],~~ the wireless telecommunications service provider shall ~~[provide a substitute or new phone number or alternative telecommunications service without charge, penalty, or fee and within twenty-four],~~ within forty-eight hours from the time the opt-out request is submitted to the wireless telecommunications service provider[-];

- (1) Transfer the billing authority and all rights to the wireless telephone number or numbers of a shared wireless plan to the person who has been granted the release pursuant to subsection (a); or
- (2) Remove or release the person, who has been granted the release pursuant to subsection (a), from a shared wireless plan and assign a substitute telephone number or numbers,

without charge, penalty, or fee.

(c) A cause of action shall not lie against any wireless telecommunications service provider, its officers, employees, or agents for the actions taken that are related to the transfer of the billing authority and rights to the wireless telephone number or numbers in accordance with this section.

~~[(e)]~~ (d) For purposes of this section:

“Domestic ~~[violence]~~ abuse” shall have the same meaning as in section ~~[321-471-] 586-1.~~

“Wireless telecommunications service” shall have the same meaning as “commercial mobile radio service” as defined in title 47 Code of Federal Regulations section 20.3.

## ACT 10

“Wireless telecommunications service provider” means a provider of wireless telecommunications service.”

SECTION 2. Section 586-5.8, Hawaii Revised Statutes, is amended as follows:

1. By amending the title to read:  
“~~[[§586-5.8]]~~ **Transfer or release of domestic ~~[violence]~~ abuse victims from shared wireless plans.**”

2. By amending subsection (d) to read:

“(d) For purposes of this section:

~~“Domestic violence” shall have the same meaning as in section 321-471.]~~

“Wireless telecommunications service” shall have the same meaning as “commercial mobile radio service” as defined in title 47 Code of Federal Regulations section 20.3.

“Wireless telecommunications service provider” means a provider of wireless telecommunications service.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 21, 2016.)

## ACT 10

H.B. NO. 2494

A Bill for an Act Relating to Blood Glucose Monitoring.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 302A-1164, Hawaii Revised Statutes, is amended as follows:

1. By amending its title and subsections (a) and (b) to read:

“**§302A-1164 Self-administration of medication by student and emergency administration; self-testing and self-management of diabetes by student; assistance with diabetes testing; blood glucose monitoring by student; assistance with blood glucose monitoring; permitted.** (a) The department shall permit:

(1) The self-administration of ~~[medication]~~:

(A) Medication by a student for asthma, anaphylaxis, diabetes, or other potentially life-threatening illnesses; and

(B) Blood glucose monitoring by a student; and

(2) Department employees and agents to volunteer to administer:

(A) Insulin or assist a student in administering insulin via the insulin delivery system that the student uses;

(B) Glucagon in an emergency situation to students with diabetes; ~~[or]~~

(C) Auto-injectable epinephrine in an emergency situation to students with anaphylaxis~~[-]; or~~

(D) Blood glucose monitoring or assist a student with blood glucose monitoring.

(b) The student’s parent or guardian shall provide the department with:

- (1) Written authorization for the self-administration of medication or the emergency administration of glucagon or auto-injectable epinephrine;
- (2) In the case of self-administration of medication:
  - (A) Written certification from the student's physician, advanced practice registered nurse, or physician assistant stating that the student with diabetes may perform the student's own blood glucose checks, administer insulin through the student's insulin delivery system, and otherwise attend to the care and management of the student's diabetes during any school-related activity, and that the student may possess on the student's person all necessary supplies and equipment to perform the diabetes monitoring and treatment activities, if applicable; and
  - (B) Written certification from the student's physician, advanced practice registered nurse, or physician assistant stating that the student:
    - (i) Has asthma, anaphylaxis, or another potentially life-threatening illness; and
    - (ii) Is capable of, and has been instructed in, the proper method of self-administration of medication[~~;~~] or blood glucose monitoring; and
- (3) In the case of administration of insulin or emergency administration of glucagon to a student with diabetes, blood glucose monitoring of a student, or auto-injectable epinephrine to a student with anaphylaxis, written certification from the student's physician, advanced practice registered nurse, or physician assistant stating that the student has medical orders that insulin, glucagon, blood glucose monitoring, or auto-injectable epinephrine may be administered by a volunteer."

2. By amending subsection (g) to read:

"(g) Any employee or agent who volunteers to administer insulin or glucagon in an emergency situation to a student with diabetes or auto-injectable epinephrine to a student with anaphylaxis or who volunteers to administer or assist a student with blood glucose monitoring shall receive instruction in the proper administration of insulin, glucagon, [~~or~~] auto-injectable epinephrine, or blood glucose monitoring by a qualified health care professional. A "qualified health care professional" means a licensed physician, physician assistant, advanced practice registered nurse or registered nurse, or certified diabetes educator. The student's parent or guardian shall supply the school with the glucagon kit required to administer the glucagon, any supplies necessary to administer insulin, blood glucose monitoring, or with auto-injectable epinephrine supplies to administer epinephrine. The school shall store the glucagon kit, insulin supplies, blood glucose monitoring supplies, or auto-injectable epinephrine supplies in a secure but accessible location."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved April 21, 2016.)

A Bill for an Act Relating to Information Technology.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to authorize the chief information officer, with approval of the governor, to transfer and expend general funds as well as non-general funds to executive departments and agencies for expenditure on projects approved by the office of enterprise technology services.

SECTION 2. Act 119, Session Laws of Hawaii 2015, is amended by amending section 41 to read as follows:

“SECTION 41. Provided that, of the appropriation for information management and technology (AGS130):

- (1) The following amounts may be expended by the chief information officer for any of the projects listed under paragraph (2) and for no other purpose:
  - (A) \$6,100,000 in general funds, \$1,800,000 in special funds, \$7,700,000 in federal funds, \$600,000 in other federal funds, and \$100,000 in revolving funds in fiscal year 2015-2016; and
  - (B) \$5,500,000 in general funds, \$1,600,000 in special funds, \$15,200,000 in federal funds, and \$80,000 in revolving funds in fiscal year 2016-2017;
- (2) The projects, the amounts under paragraph (1) for which may be expended, are the following:
  - (A) Information technology system upgrades and repair and maintenance for rabies quarantine (AGR131);
  - (B) Datamart upgrades for information processing and communication services (AGS131);
  - (C) Statewide voter registration system for the office of elections (AGS879);
  - (D) Child support enforcement (keiki) system modernization feasibility study for child support enforcement services (ATG500);
  - (E) Computer hardware and software compliance upgrade for the Hawaii housing finance and development corporation (BED160);
  - (F) ALIAS project completion for professional and vocational licensing (CCA105);
  - (G) Complaints management system replacement for regulated industries complaints office (CCA112);
  - (H) Student information system for state administration (EDN300);
  - (I) Security management and compliance plan administration and monitoring for general support for health care payments (HMS902);
  - (J) Kauhale on-line eligibility assistance (KOLEA) system maintenance and operation for general support for health care payments (HMS902); and
  - (K) Information technology system conversion for general administration (TRN995);
- (3) Before expending any amount for a project listed under paragraph (2), the chief information officer shall consult with the governor and

all administrative heads of the departments or agencies with jurisdiction over the listed projects;

- (4) The chief information officer, with the approval of the governor, shall identify the ~~[non-general]~~ funds to be expended on the projects, and:
  - (A) The governor shall direct the administrative heads of the departments or agencies with jurisdiction over the projects to expend the identified ~~[non-general]~~ funds as required by the chief information officer; or
  - (B) Alternatively, the chief information officer, with the approval of the governor, may delegate to the administrative head of a department or agency the authority to expend the identified ~~[non-general]~~ funds for a project in accordance with the chief information officer's direction.

For the purpose of this paragraph, the chief information officer shall comply with any matching requirement for the expenditure of federal funds or other federal funds;

- (5) When directing or authorizing the expenditure for the listed projects, the chief information officer, to the fullest extent possible, shall strive for a commonality and efficiency of information technology systems;
- (6) The governor, after consultation with the chief information officer, may establish not more than 5.00 temporary positions exempt from the civil service and assign them to assist departments or agencies with projects funded under this section;
- (7) If any part of the amount specified under paragraph (1) becomes unnecessary because of completion, delay, or abandonment of a project or other reason, the chief information officer shall notify the legislature in the report required under paragraph (9);
- (8) The difference between the amount specified under paragraph (1)(A) or (B) for a fiscal year and the amount expended or encumbered for the projects listed under paragraph (2) for that fiscal year shall lapse on June 30 of that fiscal year and shall not be expended by the chief information officer for any other purpose; and
- (9) The chief information officer shall submit a report to the legislature not later than twenty days prior to the convening of the regular session of 2016 on the expenditures made under this section and a discussion of the operational and financial feasibility of sustaining such a process as a means of increasing oversight and transparency and better managing of the state's information systems."

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 21, 2016.)

## A Bill for an Act Relating to Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-41, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

“(i) If the licensee is a corporation, a change in ownership of any outstanding capital stock shall not be deemed a transfer of a license; provided that in the case of a change in ownership of twenty-five per cent or more of the stock or in the case of change in ownership of any number of shares of the stock that results in the transferee thereof becoming the owner of twenty-five per cent or more of the outstanding voting capital stock, the corporate licensee shall, prior to the date of the transfer, apply for and secure the approval of the transfer from the commission in writing. If the commission finds that the proposed transferee is an unfit or improper person to hold a license in the proposed transferee's own right pursuant to section 281-45, it shall not approve the proposed transfer. If any transfer is made without the prior approval of the commission, the commission may in its discretion revoke or suspend the license until it determines that the transferee is a fit and proper person, and if the commission finds that the transferee is not a fit and proper person, until a retransfer or new transfer of the capital stock is made to a fit and proper person pursuant to section 281-45. In addition, the corporate licensee shall, within thirty days from the date of election of any officer or director, notify the commission in writing of the name, age, and place of residence of the officer or director[-]; provided that if the licensee is a publicly-traded company, or an entity ultimately solely owned by a publicly-traded company, the licensee shall, within thirty days from the date of election of any replacement of an officer designated as a primary decisionmaker regarding the purchase and sale of liquor, notify the commission in writing of the name, age, and place of residence of the officers. If the commission finds the transferee, officer, or director an unfit or improper person to hold a license in the transferee's, officer's, or director's own right pursuant to section 281-45, it may in its discretion revoke the license or suspend the license until a retransfer or new transfer of the capital stock is effected to a fit or proper person pursuant to section 281-45 or until the unfit or improper transferee, officer, or director is removed or replaced by a fit and proper person pursuant to section 281-45.”

SECTION 2. Section 281-45, Hawaii Revised Statutes, is amended to read as follows:

“§281-45 No license issued, when. No license shall be issued under this chapter:

- (1) To any minor or to any person who has been convicted of a felony and not pardoned, or to any other person not deemed by the commission to be a fit and proper person to have a license; provided that the commission may grant a license under this chapter to a corporation that has been convicted of a felony where the commission finds that the corporation's officers and shareholders of twenty-five per cent or more of outstanding stock are fit and proper persons to have a license;
- (2) To a corporation the officers and directors of which, or any of them, would be disqualified under paragraph (1) from obtaining the license individually, or a stockholder of which, owning or controlling

- twenty-five per cent or more of the outstanding capital stock, or to a general partnership, limited partnership, limited liability partnership, or limited liability company whose partner or member holding twenty-five per cent or more interest of which, or any of them would be disqualified under paragraph (1) from obtaining the license individually;
- (3) Unless the applicant for a license or a renewal of a license, or in the case of a transfer of a license, both the transferor and the transferee, present to the issuing agency a [signed] tax clearance certificate from the [director] department of taxation and from the Internal Revenue Service showing that the applicant or the transferor and transferee do not owe the state or federal governments any delinquent taxes, penalties, or interest; or that the applicant, or in the case of a transfer of a license, the transferor or transferee, has entered into an installment plan agreement with the department of taxation and the Internal Revenue Service for the payment of delinquent taxes in installments and that the applicant is or the transferor or transferee is, in the case of a transfer of a license, complying with the installment plan agreement;
  - (4) To an applicant for a class 2, class 4 except for convenience minimarts, class 5, class 6, class 11, class 12, class 13, class 14, class 15, class 17, or class 18 license unless the applicant for issuance of a license or renewal of a license, or in the case of a transfer of a license, both the transferor and the transferee, present to the issuing agency proof of liquor liability insurance coverage in an amount of \$1,000,000; or
  - (5) To any applicant who has had any liquor license revoked less than two years previous to the date of the application for any like or other license under this chapter."

SECTION 3. Section 281-53, Hawaii Revised Statutes, is amended to read as follows:

**"§281-53 Application; penalty for false statements.** Every application for a license or for the renewal of a license or for the transfer of a license shall be in writing, signed and, except for the renewal of a license, verified by the oath of the applicant, or in the case of a corporation or unincorporated association by the proper officer or officers thereof, or if a partnership by a general partner thereof, or if a limited liability partnership by a partner thereof, or if a limited liability company by a member thereof, made before any official authorized by law to administer oaths, and shall be addressed to the liquor commission, and set forth:

- (1) The full name, age, and place of residence of the applicant; if a copartnership, the names, ages, and respective places of residence of all the partners; if a limited liability company, its full name and the names of all its members; if a corporation or joint-stock company, its full name and the names of its officers and directors, and the names of all stockholders owning twenty-five per cent or more of the outstanding capital stock; if a publicly-traded company, or an entity ultimately solely owned by a publicly-traded company, the names of the officers designated as the primary decisionmakers regarding the purchase and sale of liquor; and if any other association of individuals, the names, ages, and respective places of residence of its officers and the number of its members;



## ACT 13

- (2) A particular description of the place or premises where the proposed license is to be exercised, so that the exact location and extent thereof may be clearly and definitely determined therefrom;
- (3) The class and kind of license applied for; and
- (4) Any other matter or information pertinent to the subject matter which may be required by the rules of the commission.

If any false statement is knowingly made in any application which is verified by oath, the applicant, and in the case of the application being made by a corporation, limited liability company, association, or club, the persons signing the application, shall be guilty of perjury, and shall be subject to the penalties prescribed by law for such offense. If any false statement is knowingly made in any application which is not verified by oath, the person or persons signing the application shall be guilty of a misdemeanor and upon conviction thereof shall be punished as in section 281-102 provided."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 22, 2016.)

## ACT 13

S.B. NO. 2775

A Bill for an Act Relating to the Affordable Care Act Section 1332 State Innovation Waiver.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the State of Hawaii has a bold history as an innovator in ensuring that its residents have access to health care. The Hawaii Prepaid Health Care Act has ensured the availability of employer-sponsored health insurance for workers and their families for more than forty years, meeting or exceeding the goals of the federal Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) for employer sponsored health coverage.

The legislature further finds that the State of Hawaii has taken all necessary steps to comply with the implementation of the health insurance exchange and other insurance reforms required by the Affordable Care Act, but that there remain concerns that portions of the Affordable Care Act could undermine certain gains made by the Hawaii Prepaid Health Care Act.

Under section 1332 of the Affordable Care Act, a state can apply for a state innovation waiver, allowing the State to implement innovative ways to provide access to quality health care. Act 158, Session Laws of Hawaii 2014, established a state innovation waiver task force to develop a health care reform plan that would meet the requirements for obtaining a state innovation waiver in compliance with the Affordable Care Act. Act 184, Session Laws of Hawaii 2015, amended the scope of the task force's responsibilities to facilitate the development of a state innovation waiver application in a timely manner.

The state innovation waiver task force has met regularly since September 2014, holding meetings in accordance with state open meeting requirements, and posting all materials on the Governor's website, satisfying the procedural requirement of the Affordable Care Act. In those meetings, the task force carefully considered all sections of the Affordable Care Act for potential waiver, identify-

ing those provisions that improve coverage and consumer protections and those that contradict, confuse, or weaken employer-coverage mandates in the Hawaii Prepaid Health Care Act.

Once the task force agreed upon the substance of its draft proposal, the task force held a series of seven public hearings on six islands, as required by federal law. These public hearings conformed to state and federal public notice requirements and were attended by a total of one hundred sixty-three community participants. The draft plan and additional information were made publicly available prior to and at the public hearings.

The results of the task force's efforts are contained in its report to the legislature, submitted in December of 2015, recommending three actions for Hawaii's insurance marketplace:

- (1) Maintain access to affordable health insurance coverage for individuals via the state-based exchange utilizing the federal platform;
- (2) Align the Affordable Care Act with the Hawaii Prepaid Health Care Act's requirements for private employers to the extent allowable; and
- (3) Waive the Affordable Care Act Small Business Health Options Program and its requirements for the small business marketplace, including the employee choice provision.

Accordingly, in order to facilitate the development of innovative approaches to insuring the people of Hawaii, the purpose of this Act is to authorize the State to submit a state innovation waiver proposal and to implement such waiver upon approval by the federal government.

SECTION 2. The State is authorized to submit a state innovation waiver proposal to the United States Secretaries of Health and Human Services and the Treasury to waive certain provisions of the Affordable Care Act, as provided under section 1332 of the federal act, and upon approval by the Secretaries, to implement the waiver on or after January 1, 2017.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 2016.)

## ACT 14

S.B. NO. 2341

A Bill for an Act Relating to Respiratory Therapists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that chapter 466D, Hawaii Revised Statutes, establishes the regulation of respiratory therapists, which is set to repeal on June 30, 2016. Furthermore, pursuant to chapter 26H, Hawaii Revised Statutes, the auditor is required to evaluate newly enacted occupational regulatory programs prior to each board's, commission's, or regulatory program's repeal date.

The legislature further finds that an auditor's report from June 2015 finds that the regulation of respiratory therapists is reasonably necessary to protect the health and safety of consumers. The findings also note that licensure of respiratory therapists is consistent with other health-related occupations, such as doctors and nurses, and is warranted because consumers' health and safety may be jeopardized by the nature of services offered by respiratory therapists. Furthermore, every state except Alaska regulates respiratory therapists.

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The purpose of this Act is to make permanent the regulation of respiratory therapists under chapter 466D, Hawaii Revised Statutes, which will ensure the health and safety of Hawaii residents and visitors.

SECTION 2. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

**“§26H-4 Repeal dates for newly enacted professional and vocational regulatory programs.** (a) Any professional or vocational regulatory program enacted after January 1, 1994, and listed in this section shall be repealed as specified in this section. The auditor shall perform an evaluation of the program, pursuant to section 26H-5, prior to its repeal date.

~~[(b) Chapter 466D (respiratory therapists) shall be repealed on June 30, 2016.~~

~~(e)]~~ (b) Chapter 436H (athletic trainers) shall be repealed on June 30, 2018.

~~[(d)]~~ (c) Chapter 465D (behavior analysts) shall be repealed on June 30, 2021.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on June 29, 2016.

(Approved April 25, 2016.)

## ACT 15

S.B. NO. 2934

A Bill for an Act Relating to Driver Licensing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-107, Hawaii Revised Statutes, is amended to read as follows:

**“§286-107 License renewals; procedures and requirements.** (a) The examiner of drivers may accept an application for a renewal of a driver's license made not more than six months prior to the date of expiration.

If, however, the renewal is not applied for within ninety days after the expiration of the license, the applicant for renewal shall be treated as an applicant for a new license and examined as provided in section 286-108.

(b) Except as otherwise provided in subsection (c), an applicant for a renewal of a driver's license under this section, or the reactivation of an expired license under section 286-107.5(a), shall appear in person before the examiner of drivers and the examiner of drivers shall administer such physical examinations as the state director of transportation deems necessary to determine the applicant's fitness to continue to operate a motor vehicle.

(c) Any person who holds a category (1), (2), or (3) license issued under this part who is unable to appear in person before the examiner of drivers to apply for a renewal of the driver's license, may, if the person is not disqualified from renewing the license under subsection (a) except as provided under subsection (h), apply for a renewal by mail. The applicant's request to have the license renewed by mail must be received by the examiner of drivers within ninety days after the expiration of the license or it shall be treated as an application for reac-

tivation of an expired license under section 286-107.5. The examiner of drivers shall, upon receipt of the request, furnish the applicant with all necessary forms and instructions. An application for renewal made pursuant to this subsection shall be accompanied by a statement from a licensed physician, physician assistant, or advanced practice registered nurse certifying that the applicant was examined by the licensed physician, physician assistant, or advanced practice registered nurse not more than six months prior to the expiration date of the applicant's license and that the applicant was found by the examination to have met the physical requirements established by the state director of transportation for the renewal of licenses. The application for renewal shall also be accompanied by:

- (1) A notarized statement of the applicant certifying that the applicant does not possess any valid license to operate the same or similar category or categories of motor vehicles, issued by another licensing authority (unless the license is concurrently surrendered); and
- (2) Such other information as may be required by the examiner of drivers that is reasonably necessary to confirm the identity of the applicant and the applicant's fitness to continue to operate a motor vehicle.

(d) An applicant for a renewal of the applicant's driver's license, whether applying pursuant to subsections (b) or (c), shall pay the fee determined by the council of the appropriate county. Payment of the fee shall be by certified check or money order, tendered together with the application.

(e) No driver's license shall be renewed by the examiner of drivers unless:

- (1) The examiner of drivers is satisfied of the applicant's fitness to continue to operate a motor vehicle;
- (2) The fee required by subsection (d) is tendered together with the application for renewal; and
- (3) The applicant complies with section 286-102.5.

~~[(f)] A driver's license renewed pursuant to subsection (e) may validly be issued without incorporating a photograph of the licensee.~~

~~(g)] (f) No driver's license shall be renewable by mail [for]:~~

- (1) For more than two consecutive renewals, regardless of whether the license expires, as provided under section 286-106, on the [sixth,] eighth, fourth, or second birthday after issuance; or
- (2) Sixteen years have lapsed since the applicant had appeared in person;

provided that this subsection shall not apply to a resident military person or that person's immediate family if the resident military person resides outside the State on official military orders.

~~[(h)]~~ (g) Notwithstanding subsection (a), any applicant for a renewal of a driver's license who is a member of any component of the United States armed forces and who is on active federal service outside of the State at the time the applicant's license should be renewed, may file an application for a renewal of the driver's license, which shall be accompanied by verification of federal active service outside the State as required by the examiner of drivers, within ninety days of the applicant's return to the State or discharge from hospitalization. The examiner of drivers may waive the reactivation fee otherwise required by section 286-107.5.

~~[(i)]~~ (h) The state director of transportation shall adopt rules and regulations pursuant to chapter 91, necessary for the purposes of this section, including rules and regulations governing the effect to be given to convictions for violations of traffic laws of a foreign jurisdiction, upon license renewal procedures."

SECTION 2. Section 286-108, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The examiner of drivers may waive the written or oral examination required under subsection (a)(2) and (3) and the actual demonstration of ability to operate a motor vehicle for any person who:

- (1) Is at least eighteen years of age and who possesses a valid driver’s license issued to the applicant in any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, a province of the Dominion of Canada, or the Commonwealth of the Northern Mariana Islands for the operation of vehicles in categories 1 through 3 of section 286-102;
- (2) Has completed the same requirements as set forth in section 286-102.6(f) in another state and possesses a valid provisional license from that state; or
- (3) Is at least eighteen years of age and who possesses a valid driver’s license issued to the applicant in any jurisdiction for which the director has granted reciprocal licensing privileges in accordance with section 286-101.5 for the operation of vehicles in category (3) of section 286-102(b).”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 25, 2016.)

## ACT 16

S.B. NO. 2312

A Bill for an Act Relating to the Penal Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 707-750, Hawaii Revised Statutes, is amended by amending the definition of “sexual conduct” in subsection (2) to read as follows:

““Sexual conduct” means ~~[acts of]~~ actual or simulated sexual intercourse, including genital-genital contact, oral-genital contact, anal-genital contact, or oral-anal contact, whether between persons of the same or opposite sex, masturbation, ~~[homosexuality, lesbianism,]~~ bestiality, sexual penetration, deviate sexual intercourse, sadomasochistic abuse, or lascivious exhibition of the genital or pubic area of a minor.”

SECTION 2. Section 707-751, Hawaii Revised Statutes, is amended by amending the definition of “sexual conduct” in subsection (2) to read as follows:

““Sexual conduct” means ~~[acts of]~~ actual or simulated sexual intercourse, including genital-genital contact, oral-genital contact, anal-genital contact, or oral-anal contact, whether between persons of the same or opposite sex, masturbation, ~~[homosexuality, lesbianism,]~~ bestiality, sexual penetration, deviate sexual intercourse, sadomasochistic abuse, or lascivious exhibition of the genital or pubic area of a minor.”

SECTION 3. Section 707-752, Hawaii Revised Statutes, is amended by amending the definition of “sexual conduct” in subsection (2) to read as follows:

““Sexual conduct” means [~~acts of~~] actual or simulated sexual intercourse, including genital-genital contact, oral-genital contact, anal-genital contact, or oral-anal contact, whether between persons of the same or opposite sex, masturbation, [~~homosexuality, lesbianism,~~] bestiality, sexual penetration, deviate sexual intercourse, sadomasochistic abuse, or lascivious exhibition of the genital or pubic area of a minor.”

SECTION 4. Section 712-1210, Hawaii Revised Statutes, is amended by amending the definition of “sexual conduct” to read as follows:

““Sexual conduct” means acts of masturbation, [~~homosexuality, lesbianism,~~] bestiality, sexual intercourse or physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or the breast or breasts of a female for the purpose of sexual stimulation, gratification, or perversion.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 26, 2016.)

## ACT 17

S.B. NO. 2246

A Bill for an Act Relating to Testing for Intoxicants.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291E-15, Hawaii Revised Statutes, is amended to read as follows:

**“§291E-15 Refusal to submit to breath, blood, or urine test; subject to administrative revocation proceedings.** If a person under arrest refuses to submit to a breath, blood, or urine test, none shall be given, except as provided in section 291E-21. Upon the law enforcement officer’s determination that the person under arrest has refused to submit to a breath, blood, or urine test, if applicable, then a law enforcement officer shall:

- (1) Inform the person under arrest of the sanctions under section 291E-41[~~5~~] or 291E-65[~~, or 291E-68~~]; and
  - (2) Ask the person if the person still refuses to submit to a breath, blood, or urine test, thereby subjecting the person to the procedures and sanctions under part III or section 291E-65, as applicable;
- provided that if the law enforcement officer fails to comply with paragraphs (1) and (2), the person shall not be subject to the refusal sanctions under part III or IV.”

SECTION 2. Section 291E-68, Hawaii Revised Statutes, is repealed.

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 26, 2016.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 18

S.B. NO. 2862

A Bill for an Act Relating to Nursing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that recent incidents of individuals using false verifications of inactive or non-existent Hawaii nurse licenses to fraudulently obtain nursing license verifications in other states have prompted Hawaii's board of nursing to seek the use of a more secure system recognized by almost all state nursing boards. This coordinated licensure information system, currently under the National Council of State Boards of Nursing and known as "Nursys", is a national database for nurse licensees that includes license and disciplinary action information. Currently, Hawaii, Alabama, Oklahoma, and Louisiana are the only states with boards of nursing not "fully" participating in Nursys, meaning that although Hawaii reports all disciplinary actions taken against a nurse licensee to Nursys, license information is not provided.

The information to be shared as part of full participation in Nursys includes licensure and enforcement activities related to nurse licensure laws. By sharing license and discipline information with Nursys, the nurse licensee will be able to obtain a license verification and have it available immediately to the endorsing board of nursing. Benefits of participating in Nursys also include prompt email notification of any disciplinary action taken by another board of nursing against an individual holding a Hawaii nurse license, Social Security Master Death Index comparison, and Sex Offenders Registry comparison. Additionally, by participating more fully in Nursys, the board of nursing will be able to timely obtain verification of licensure for applicants applying for a Hawaii nurse license, and Hawaii licensees endorsing to another state will be able to order a verification through Nursys, streamlining the licensure process. Furthermore, greater participation in Nursys will enhance the transition towards the adoption of the nurse licensure compact.

The purpose of this Act is to allow the board of nursing to share nurse license information with the Nursys coordinated nurse licensure information system.

SECTION 2. Chapter 457, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§457- Nursys; verification of nurse license.** Notwithstanding any other law to the contrary, the board of nursing may fully participate in Nursys by sharing licensure and discipline data with Nursys. By applying for nurse licensure, individuals shall consent to allowing the board to share their licensure and discipline data with Nursys."

SECTION 3. Section 457-2, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Licensure and discipline data” means identifying information that includes but is not limited to the licensee’s name, address, social security number, date of birth, and nursing education.

“Nursys” means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.”

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved April 26, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 19**

S.B. NO. 2813

A Bill for an Act Relating to Guardianship.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Prior to a person purchasing a firearm in the State of Hawaii, a National Instant Criminal Background Check System (NICS) check is completed by the police department in the county in which the firearm is being purchased to determine whether the person is federally prohibited from possessing a firearm. NICS is a federal database to which states are asked to contribute data, in order to identify those who are federally prohibited from possessing a firearm. Recent events have resulted in some states being criticized for failing to provide sufficient information to NICS. This Act addresses an area that Hawaii is currently not reporting and closes the gap in being compliant with NICS reporting requirements.

Under the NICS Improvement Amendments Act of 2007, Public Law 110-180 (18 U.S.C. §922(d)(4) and (g)(4)), a person “who has been adjudicated as a mental defective or has been committed to any mental institution” may not possess firearms or ammunition. This prohibited category includes those who have been adjudicated as not guilty by reason of insanity, determined to be incompetent to stand trial, involuntarily committed to a mental institution, or placed in legal guardianship status as an adult due to mental incapacitation.

Hawaii currently does not submit information on those that have been placed in legal guardianship status to NICS, nor does it share the information with local law enforcement agencies responsible for granting firearm permits and registering firearms. This Act amends section 560:5-311, Hawaii Revised Statutes, to require the courts to forward information about adult guardianship appointment orders to the Hawaii criminal justice data center, which in turn will forward the information to the Federal Bureau of Investigation for inclusion in the NICS database. It also requires the Hawaii criminal justice data center to maintain the information for disclosure to law enforcement for the purpose of firearms permitting and registration.

SECTION 2. Section 560:5-311, Hawaii Revised Statutes, is amended to read as follows:



**“§560:5-311 Findings; order of appointment.** (a) The court may:

(1) Appoint a limited or unlimited guardian for a respondent only if it finds by clear and convincing evidence that:

(A) The respondent is an incapacitated person; and

(B) The respondent’s identified needs cannot be met by less restrictive means, including use of appropriate and reasonably available technological assistance; or

(2) With appropriate findings, treat the petition as one for a protective order under section 560:5-401, enter any other appropriate order, or dismiss the proceeding.

(b) The court, whenever feasible, shall grant to a guardian only those powers necessitated by the ward’s limitations and demonstrated needs and make appointive and other orders that will encourage the development of the ward’s maximum self-reliance and independence.

(c) Within fourteen days after an appointment, a guardian shall send or deliver to the ward and to all other persons given notice of the hearing on the petition a copy of the order of appointment, together with a notice of the right to request termination or modification; provided that, for good cause shown, the court may extend time for the order and notice to be sent or delivered to the ward, or otherwise modify or waive that requirement.

(d) The court shall forward to the Hawaii criminal justice data center all orders of appointment or information from all orders of appointment as requested by the Hawaii criminal justice data center, which in turn shall forward the information to the Federal Bureau of Investigation, or its successor agency, for inclusion in the National Instant Criminal Background Check System database. The orders of appointment or information shall also be maintained by the Hawaii criminal justice data center for disclosure to and use by law enforcement officials for the purpose of firearms permitting or registration pursuant to chapter 134. This subsection shall apply to all orders appointing a guardian of an incapacitated person without regard to the date of the appointment.”

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2017.

(Approved April 26, 2016.)

**ACT 20**

S.B. NO. 2885

A Bill for an Act Relating to Birth Defects.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 324-43, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[§324-43]]~~ Use of collected information.** (a) The information collected under this part shall be used by the department of health or researchers only for the purpose of advancing medical and public health research, medical education, or education of the public and healthcare providers in the interest of reducing morbidity or mortality~~[-]~~ or increasing physicians’ knowledge of resources available for families of persons with birth defects, and only as approved or exempted by an institutional review board.

(b) The identity of, or any information which alone or in combination with other reasonably available information that may be used to identify, any person whose condition or treatment has been studied under this part shall be confidential.

(c) If the ~~[[birth defects program]]~~ or researchers intend to collect additional information directly from a patient or patient's relative for research studies approved by an institutional review board, the researcher shall first obtain approval for the request from the patient's ~~[attending physician.]~~ primary care provider. If the patient's current physician is not known, the patient may be contacted directly using a method approved by an institutional review board. The use of the additional information obtained by researchers shall be governed by subsection (a)."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved April 26, 2016.)

## ACT 21

S.B. NO. 2874

A Bill for an Act Relating to Certified Nurse Aides.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 93, Session Laws of Hawaii 2012, was enacted to improve the efficiency, capacity, and quality of state health care services provided by the department of human services and the department of health, as they relate to various health care services, by transferring to the department of health office of health care assurance on July 1, 2014, the programs of the department of human services relating to home and community-based case management, community care foster family homes, and adult day care centers. As a result, certain statutory provisions are no longer applicable to the department of human services. The purpose of this Act is to delete duplicative or obsolete statutory provisions.

SECTION 2. Section 457A-1.5, Hawaii Revised Statutes, is amended by amending the definition of "state-licensed or state-certified health care settings" to read as follows:

"State-licensed or state-certified health care settings" means health care settings, other than [a] Medicare or Medicaid certified nursing facilities, which are regulated by the department of health ~~[or the department of human services].~~"

SECTION 3. Section 457A-2, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The director of human services shall implement this chapter in accordance with 42 United States Code sections 1395i-3 and 1396r, that relate to:

- (1) ~~Training~~ training programs for nurse aides and recertification; provided that recertification shall be required not less than every two years and the number of continuing education hours required for recertification shall not exceed twenty-four hours, except as specified by federal law~~]; and~~

- (2) ~~Disciplining of certified nurse aides employed in health care settings licensed or certified by the department of human services].~~"

SECTION 4. Section 457A-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The director shall issue certificates to qualified nurse aides and shall be responsible for maintenance of an up-to-date nurse aide registry that shall include the names of certified nurse aides, their places of employment, and all information that is ~~[required to be]~~ reported by the department of health and the department of human services. The director's role, with regard to the disciplining of certified nurse aides, shall be limited to the placement into the certified nurse aide registry of all information and substantiated findings from the department of health ~~[and the department of human services]~~, as required by 42 United States Code sections 1395i-3 and 1396r, and the department of human services, within ten working days of the finding, which information shall permanently remain in the registry except if:

- (1) The finding was made in error;
- (2) The individual is found not guilty in court; or
- (3) The State receives notification of the individual's death."

SECTION 5. Section 346-47, Hawaii Revised Statutes, is repealed.

SECTION 6. Statutory material to be repealed is bracketed and stricken<sup>1</sup>. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved April 26, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 22**

S.B. NO. 2873

A Bill for an Act Relating to Orders for Immediate Protection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-231, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) If the department believes that a person is a vulnerable adult and it appears probable that the vulnerable adult has incurred abuse or is in danger of abuse if immediate action is not taken and the vulnerable adult consents, or if the vulnerable adult does not consent and there is probable cause to believe that the vulnerable adult lacks the capacity to make decisions concerning the vulnerable adult's person, the department ~~[shall]~~ may seek an order for immediate protection in accordance with this section."

Section 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

Section 3. This Act shall take effect upon its approval.

(Approved April 26, 2016.)

## A Bill for an Act Relating to Telecommunications.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the need for broadband services has continued to grow and that broadband service has become an essential infrastructure for society in the twenty-first century. The legislature further finds that the promotion and development of broadband services are critical for the advancement of education, health, public safety, research and innovation, civic participation, e-government, economic development and diversification, and public safety and services. These findings were reinforced in 2015 when the Federal Communications Commission reclassified broadband service under title II of the Federal Telecommunications Act, essentially classifying broadband service as a public utility on par with telecommunications service.

Act 199, Session Laws of Hawaii 2010, established the broadband assistance advisory council (advisory council). Act 151, Session Laws of Hawaii 2011, amended Act 199 to make the director of commerce and consumer affairs a member and chairperson of the advisory council. The advisory council is tasked with advising the director of commerce and consumer affairs on policy and funding priorities to promote and encourage the use of telework alternatives for public and private employees and to expedite the development of affordable and accessible broadband services in Hawaii.

The purpose of this Act is to:

- (1) Make the director of business, economic development, and tourism a member of the advisory council;
- (2) Ensure that each of the counties are represented on the advisory council; and
- (3) Authorize the chair of the advisory council to include representatives of other interested public or private sector organizations on an ad hoc basis as members of the advisory council or the work groups of the advisory council.

SECTION 2. Act 199, Session Laws of Hawaii 2010, as amended by Act 151, Session Laws of Hawaii 2011, is amended by amending section 3 to read as follows:

**“SECTION 3. Telework promotion ~~[and]~~; broadband assistance advisory council; establishment; purpose.** (a) The director of commerce and consumer affairs shall convene and chair the broadband assistance advisory council to advise the director of commerce and consumer affairs on policy and funding priorities to promote and encourage use of telework alternatives for public and private employees, and expedite deployment of affordable and accessible broadband services in Hawaii.

(b) The council shall be composed of the director of commerce and consumer affairs, or the director's designee~~[-]; the director of business, economic development, and tourism, or the director's designee;~~ and the following twelve members who shall be equally appointed by the president of the senate and by the speaker of the house of representatives as follows:

- (1) Two members of the senate, appointed by the president of the senate;
- (2) Two members of the house of representatives, appointed by the speaker of the house of representatives;

- (3) Four representatives of federal, state, and county government entities having a role in infrastructure deployment; management of public rights-of-way, regulation, and franchising; information technology; and economic development; and
- (4) Four representatives of Hawaii's private sector technology, telecommunications, and investment industries.

In making the appointments pursuant to subsection (b)(1) through (b)(3), the president of the senate and the speaker of the house of representatives shall ensure representation of each of the counties of Hawaii, Maui, and Kauai, and the city and county of Honolulu by one or more appointed members. Except for the director of commerce and consumer affairs[;] and the director of business, economic development, and tourism, all members shall serve for a term of four years. Notwithstanding any law to the contrary, the terms of all members as of July 1, 2016, shall expire on June 30, 2019; and, each subsequent four-year term shall commence on July 1, and expire on June 30 every four years thereafter. Any member of the council whose term has expired may continue to serve as a holdover member until reappointment or until a successor is appointed. Any vacancies occurring in the membership of the advisory council shall be filled for the remainder of the unexpired term in the same manner as the original appointments.

(c) The director of commerce and consumer affairs shall serve as chairperson of the council. The chairperson may designate representatives of other interested public or private sector organizations to serve as members of the council, or as members of the work groups of the council to address specified issues on an ad hoc basis, as the chairperson deems necessary. The council shall meet at times as may be called by the chairperson. Members and ad hoc members shall be reimbursed for reasonable expenses, including travel expenses, necessary for the performance of their duties. Administrative support to the council shall be provided by the department of commerce and consumer affairs.

(d) The council shall:

- (1) Monitor the broadband-based development efforts of other states and nations in areas such as business, education, and health;
- (2) Advise the department on other states' best practices involving telework promotion and policies and strategies related to making affordable broadband services available to every Hawaii home and business;
- (3) Monitor broadband-related activities at the federal level;
- (4) Monitor regulatory and policy changes for potential impact on broadband deployment and sustainability in Hawaii; and
- (5) Encourage public-private partnerships to increase the deployment and adoption of broadband services and applications."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved April 26, 2016.)

## ACT 24

S.B. NO. 2256

A Bill for an Act Relating to Motor Vehicle Driver Licensing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that section 249-9.2, Hawaii Revised Statutes, relating to special number plates for military service, allows veterans of the Korean conflict to have "Korea Veteran" imprinted on their Hawaii license plates. Although existing statute also provides for annotation of veteran status on driver's licenses, it is difficult for veterans of the Korean conflict to qualify for the veteran's driver's license annotation provision.

The purpose of this Act is to clarify that the definition of "veteran" for purposes of notation on a driver's license includes veterans of the Korean conflict and certain persons who served during the Korean conflict and meet additional requirements.

SECTION 2. Section 286-109, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Upon payment of the required fee and upon demonstrating the ability to operate a certain category or categories of motor vehicles to the satisfaction of the examiner of drivers, an applicant for a driver's license shall be issued a single license of a design approved by the director of transportation upon which is made a notation of:

- (1) The category or categories of motor vehicles the applicant may operate;
- (2) Any restrictive provisions to which the license is subject;
- (3) Veteran status, if desired by the applicant; provided that the notation shall be on the front of the license and shall not include any designation other than the term "veteran"; and
- (4) When the license is issued to a person under twenty-one years of age, a statement, in clearly legible print that shall contrast with the other information appearing on the license, which indicates the date on which the person will attain the age of twenty-one years.

As used in this subsection, "veteran" means any person who served in any of the uniformed services of the United States, including veterans of the Korean conflict and persons who served in the armed forces of the Republic of Korea, who fought under the command of the United Nations led by the United States, during the Korean conflict and are currently United States citizens, and was discharged under conditions other than dishonorable."

SECTION 3. Section 286-111, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Every application shall state the full name, date of birth, sex, occupation, veteran status if applicable (including veterans of the Korean conflict and persons who served in the armed forces of the Republic of Korea, who fought under the command of the United Nations led by the United States, during the Korean conflict and are currently United States citizens) and desired by the applicant, social security number if the applicant is eligible for a social security number, the residence address, and business address, if any, of the applicant, shall briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as a driver, and, if so, when and in what state or country, and whether any such license has ever been suspended or revoked, or

whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, or refusal.”

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 26, 2016.)

**ACT 25**

S.B. NO. 305

A Bill for an Act Relating to Use of Tobacco Products and E-Cigarettes on Hawaii Health Systems Corporation Premises.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that facilities within the Hawaii health systems corporation are committed to providing quality healthcare for the people of Hawaii and taking steps to lessen the occurrence of preventable disease. Consistent with this commitment, the corporation must not permit the use of tobacco and other potentially dangerous substances on the campuses of its health facilities. Allowing such use would not only expose vulnerable patients, employees, and visitors to the perils of harmful substances, but would also demonstrate a shortcoming in the corporation’s goal of reducing the occurrence of preventable disease.

The purpose of this Act is to protect patients, employees, and all other visitors to the health facilities within the Hawaii health systems corporation from exposure to second-hand smoke and other potentially harmful substances as well as to promote positive health practices by prohibiting any person from using tobacco products or electronic smoking devices, often referred to as e-cigarettes, on the premises of any Hawaii health systems corporation facility.

SECTION 2. Chapter 323F, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§323F- Tobacco and electronic smoking devices use prohibited.** (a) Notwithstanding the less restrictive requirements of chapter 328J, the Hawaii health systems corporation shall prohibit the use of any tobacco product or electronic smoking device by any person on the premises of all facilities operated by the corporation within the State, to the extent not prohibited by federal law and regulation.

(b) Pursuant to section 89-9(d), the tobacco and electronic smoking device use prohibitions under this section shall not be subject to collective bargaining.

(c) The corporation shall prominently display signs stating that “tobacco and electronic smoking device use is prohibited” at all entrances to the corporation’s health facilities and at other conspicuous locations throughout the outdoor premises of each health facility.

(d) For the purposes of this section:

“Electronic smoking device” means any electronic product that can be used to aerosolize and deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, hookah pipe, or hookah pen, and any

cartridge or other component of the device or related product, whether or not sold separately.

“Premises” means all indoor and outdoor areas within the state-designated property boundary lines of each of the corporation’s health facilities and shall include all employee and visitor parking lots.

“Tobacco or electronic smoking device use” does not include mere possession or storage of the same for use in locations outside the premises of the corporation’s health facilities.

“Tobacco product” means any product made or derived from tobacco that contains nicotine or other substances, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, snus, or an electronic smoking device. “Tobacco product” does not include drugs, devices, or combination products approved for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved April 26, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 26**

H.B. NO. 939

A Bill for an Act Relating to Amending Identity of Registrant’s Parent on a Birth Certificate.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 338-15, Hawaii Revised Statutes, is amended to read as follows:

**“§338-15 Late or altered certificates.** A person born in the State may file or amend a certificate after the time prescribed, upon submitting proof as required by rules adopted by the department of health. Certificates registered after the time prescribed for filing by the rules of the department of health shall be registered subject to any evidentiary requirements that the department adopts by rule to substantiate the alleged facts of birth. The department may amend a birth certificate to change or establish the identity of a registrant’s parent only pursuant to a court order from a court of appropriate jurisdiction or pursuant to a legal establishment of parenthood pursuant to chapter 584. Amendments that change or establish the identity of a registrant’s parent that are made in accordance with this section shall not be considered corrections of personal records pursuant to chapter 92F.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 27, 2016.)



A Bill for an Act Relating to Renewable Energy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that chapter 201N, Hawaii Revised Statutes, enacted by Act 207, Session Laws of Hawaii 2008, assigns the director of business, economic development, and tourism, as the State's energy resources coordinator, the responsibility of implementing a renewable energy facility siting process for state and county permits for the siting, development, construction, and operation of renewable energy facilities.

According to the state auditor's Report No. 14-13, no project has completed the siting process and the department of business, economic development, and tourism has not implemented a siting process program. The auditor also reported that the renewable energy facility siting special fund, created pursuant to Act 207 for the purpose of funding the operation and administration of the renewable energy facility siting process, maintained a balance of \$0 from the beginning of fiscal year 2009-2010 to the end of fiscal year 2013-2014, and had not demonstrated the capacity to be self-sustaining.

The department of business, economic development, and tourism's January 12, 2016 budget briefing report indicated that the renewable energy facility siting special fund is expected to have an unencumbered cash balance of \$0 throughout fiscal year 2015-2016.

Accordingly, the legislature finds that chapter 201N, Hawaii Revised Statutes, should be repealed due to lack of implementation. The purpose of this Act is to repeal chapter 201N, Hawaii Revised Statutes, relating to the renewable energy facility siting process.

SECTION 2. Section 201-12.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- "(b) The renewable energy facilitator shall have the following duties:
- (1) Facilitate the efficient permitting of renewable energy projects, including:
    - (A) The land parcel on which the facility is situated;
    - (B) Any renewable energy production structure or equipment;
    - (C) Any energy transmission line from the facility to a public utility's electricity system; and
    - (D) Any on-site infrastructure necessary for the production of electricity or biofuel from the renewable energy site;
  - (2) Initiate the implementation of key renewable energy projects by permitting various efficiency improvement strategies identified by the department;
  - (3) Administer the day-to-day coordination for renewable energy projects on behalf of the department [~~and the day-to-day operations of the renewable energy facility siting process established in chapter 201N~~]; and
  - (4) Submit periodic reports to the legislature on renewable energy facilitation activities [~~and the progress of the renewable energy facility siting process~~]."

SECTION 3. Section 269-27.2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- "(b) The public utilities commission may direct public utilities that supply electricity to the public to arrange for the acquisition of and to acquire

electricity generated from nonfossil fuel sources as is available from and the producers are willing and able to make available to the public utilities, and to employ and dispatch the nonfossil fuel generated electricity in a manner consistent with the availability thereof to maximize the reduction in consumption of fossil fuels in the generation of electricity to be provided to the public. ~~[To assist the energy resources coordinator in effectuating the purposes of chapter 201N, the public utilities commission may develop reasonable guidelines and timetables for the creation and implementation of power purchase agreements.]~~”

SECTION 4. Section 343-2, Hawaii Revised Statutes, is amended by deleting the definition of “renewable energy facility”.

~~[““Renewable energy facility” has the same meaning as defined in section 201N-1.”]~~

SECTION 5. Section 343-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Whenever an applicant proposes an action specified by subsection (a) that requires approval of an agency and that is not a specific type of action declared exempt under section 343-6, the agency initially receiving and agreeing to process the request for approval shall require the applicant to prepare an environmental assessment of the proposed action at the earliest practicable time to determine whether an environmental impact statement shall be required; provided that if the agency determines, through its judgment and experience, that an environmental impact statement is likely to be required, the agency may authorize the applicant to choose not to prepare an environmental assessment and instead prepare an environmental impact statement that begins with the preparation of an environmental impact statement preparation notice as provided by rules. ~~[For an action that proposes the establishment of a renewable energy facility, a draft environmental impact statement shall be prepared at the earliest practicable time.]~~ The final approving agency for the request for approval is not required to be the accepting authority.

For environmental assessments for which a finding of no significant impact is anticipated:

- (1) A draft environmental assessment shall be made available for public review and comment for a period of thirty days;
- (2) The office shall inform the public of the availability of the draft environmental assessment for public review and comment pursuant to section 343-3; and
- (3) The applicant shall respond in writing to comments received during the review and the applicant shall prepare a final environmental assessment to determine whether an environmental impact statement shall be required. A statement shall be required if the agency finds that the proposed action may have a significant effect on the environment. The agency shall file notice of the agency’s determination with the office, which, in turn, shall publish the agency’s determination for the public’s information pursuant to section 343-3.

The draft and final statements, if required, shall be prepared by the applicant, who shall file these statements with the office.

The draft statement shall be made available for public review and comment through the office for a period of forty-five days. The office shall inform the public of the availability of the draft statement for public review and comment pursuant to section 343-3.

The applicant shall respond in writing to comments received during the review and prepare a final statement. The office, when requested by the appli-

cant or agency, may make a recommendation as to the acceptability of the final statement.

The authority to accept a final statement shall rest with the agency initially receiving and agreeing to process the request for approval. The final decision-making body or approving agency for the request for approval is not required to be the accepting authority. The planning department for the county in which the proposed action will occur shall be a permissible accepting authority for the final statement.

Acceptance of a required final statement shall be a condition precedent to approval of the request and commencement of the proposed action. Upon acceptance or nonacceptance of the final statement, the agency shall file notice of the determination with the office. The office, in turn, shall publish the determination of acceptance or nonacceptance of the final statement pursuant to section 343-3.

The agency receiving the request, within thirty days of receipt of the final statement, shall notify the applicant and the office of the acceptance or nonacceptance of the final statement. The final statement shall be deemed to be accepted if the agency fails to accept or not accept the final statement within thirty days after receipt of the final statement; provided that the thirty-day period may be extended at the request of the applicant for a period not to exceed fifteen days.

In any acceptance or nonacceptance, the agency shall provide the applicant with the specific findings and reasons for its determination. An applicant, within sixty days after nonacceptance of a final statement by an agency, may appeal the nonacceptance to the environmental council, which, within thirty days of receipt of the appeal, shall notify the applicant of the council's determination. In any affirmation or reversal of an appealed nonacceptance, the council shall provide the applicant and agency with specific findings and reasons for its determination. The agency shall abide by the council's decision."

SECTION 6. Chapter 201N, Hawaii Revised Statutes, is repealed.

SECTION 7. Any employee hired by the department of business, economic development, and tourism pursuant to section 201N-2, Hawaii Revised Statutes, before the effective date of this Act and is transferred to another position within the department as a consequence of this Act may retain the employee's exempt status with respect to chapters 76 and 89, Hawaii Revised Statutes, but shall not be appointed to a civil service position as a consequence of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, vacation or sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act; provided that the employee possesses legal and public employment requirements for the position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The director of business, economic development, and tourism may prescribe the duties and qualifications of the employee and fix the employee's salary without regard to chapters 76 and 89, Hawaii Revised Statutes.

SECTION 8. (a) Any proceeds generated and deposited into the renewable energy facility siting special fund pursuant to Act 207, Session Laws of Hawaii 2008, that are unexpended and unencumbered as of the effective date of this Act shall be deposited into the general fund on the effective date of this Act.

(b) All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal and real property heretofore made, used, acquired, or held by the energy resources coordinator for the purposes of

chapter 201N, Hawaii Revised Statutes, shall be maintained by the Hawaii state energy office or transferred to another appropriate agency within the department of business, economic development, and tourism.

SECTION 9. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 10. Statutory material to be repealed is bracketed and stricken.

SECTION 11. This Act shall take effect on July 1, 2016.

(Approved April 27, 2016.)

## ACT 28

S.B. NO. 2107

A Bill for an Act Relating to Pen Registers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 803-41, Hawaii Revised Statutes, is amended by amending the definition of "pen register" to read as follows:

"Pen register" means a device that records or decodes electronic or other impulses that identify the numbers dialed or otherwise transmitted on the telephone line or cellular network to which ~~[such]~~ the device is [attached,] connected, or that identifies the numbers that a device uses to connect to a wire or electronic communications service, but the term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communication services provided by the provider or any device used by a provider or customer of a wire communication service for cost accounting or other similar purposes in the ordinary course of its business."

SECTION 2. Section 803-44.6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:
  - (b) If the designated judge is so satisfied, the order issued shall specify:
    - (1) The identity, if known, of the person to whom is leased or in whose name is listed the telephone line, cellular telephone, or electronic device or service to which the pen register or trap and trace device is to be attached;
    - (2) The identity, if known, of the person who is the subject of the criminal investigation;
    - (3) The number and, if known, the physical location of the telephone line, cellular telephone, or electronic device or service to which the pen register or the trap and trace device is to be attached, and, in the case of a trap and trace device, the geographical limits of the trap and trace order;
    - (4) A statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates; and
    - (5) Upon the request of the applicant, the information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device that the provider of wire communication service is directed to furnish to the applicant."

## ACT 29

2. By amending subsection (d) to read:  
“(d) An order authorizing the installation and use of a pen register or a trap and trace device shall direct that:
  - (1) The order be sealed until otherwise ordered by the court; and
  - (2) The person owning or leasing the ~~[line]~~ telephone line, cellular telephone, or electronic device or service to which the pen register or trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber or to any other person, unless otherwise ordered by the court.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 28, 2016.)

## ACT 29

S.B. NO. 2333

A Bill for an Act Related to Licensed Marriage and Family Therapists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that title 25 of the Hawaii Revised Statutes regulates numerous professions and occupations, including marriage and family therapists. One of the regulatory mechanisms provided for in title 25 is professional licensing. Specifically, marriage and family therapists are licensed by a program within the department of commerce and consumer affairs pursuant to chapter 451J, Hawaii Revised Statutes.

The legislature further finds that, although chapter 451J, Hawaii Revised Statutes, provides a licensing procedure for marriage and family therapists, the term “marriage and family therapist” is used elsewhere in the Hawaii Revised Statutes without a reference to licensing. Often, “marriage and family therapist” appears in conjunction with other regulated professions that are explicitly referred to in those sections as “licensed” professions. The legislature additionally finds that this discrepancy between marriage and family therapists and other regulated and licensed professions may create ambiguity in interpretations of these statutes.

The purpose of this Act is to improve clarity and facilitate understanding in the law by reducing ambiguity in the term “marriage and family therapist”.

SECTION 2. Section 431M-1, Hawaii Revised Statutes, is amended by amending the definitions of “alcohol or drug dependence outpatient services”, “day treatment services”, “marriage and family therapist”, “mental health outpatient services”, “partial hospitalization”, “qualified”, and “treatment episode” to read as follows:

““Alcohol or drug dependence outpatient services” means alcohol or drug dependence nonresidential treatment provided on an ambulatory basis to patients with alcohol or drug dependence problems that includes interventions prescribed and performed by qualified physicians, psychologists, licensed clinical social workers, licensed marriage and family therapists, licensed mental health counselor<sup>1</sup>, or advanced practice registered nurses. This definition shall not imply

a broadening of the scope of or granting of prescriptive authority privileges, except as otherwise allowed pursuant to chapter 457.

"Day treatment services" means treatment services provided by a hospital, mental health outpatient facility, or nonhospital facility to patients who, because of their conditions, require more than periodic hourly service. Day treatment services shall be prescribed by a physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse, and carried out under the supervision of a physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse. Day treatment services require less than twenty-four hours of care and a minimum of three hours in any one day.

"[Marriage] Licensed marriage and family therapist" means a person licensed in marriage and family therapy practice pursuant to chapter 451J.

"Mental health outpatient services" means mental health nonresidential treatment provided on an ambulatory basis to patients with mental illness that includes interventions prescribed and performed by a physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse.

"Partial hospitalization" means treatment services, including in-hospital treatment services or benefits, provided by a hospital or mental health outpatient facility to patients who, because of their conditions, require more than periodic hourly service. Partial hospitalization shall be prescribed by a physician or psychologist, and may be prescribed by a licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse in consultation with a physician or psychologist. Partial hospitalization requires less than twenty-four hours of care and a minimum of three hours in any one day.

"Qualified" means:

- (1) Having skill in the diagnosis or treatment of substance use disorders, based on a practitioner's credentials, including but not limited to professional education, clinical training, licensure, board or other certification, clinical experience, letters of reference, other professional qualifications, and disciplinary action; or
- (2) Being a licensed physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse, and certified pursuant to chapter 321.

"Treatment episode" means one admission to an accredited hospital or nonhospital facility, or office of a qualified physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse for treatment of alcohol or drug dependence, or both, as stipulated in a prescribed treatment plan and that would generally produce remission in those who complete the treatment. The prescribed treatment plan may include the provision of substance abuse services in more than one location and may include in-hospital, nonhospital residential, day treatment, or alcohol or drug dependence outpatient services, or any combination thereof. An admission for only detoxification services shall not constitute a treatment episode."

SECTION 3. Section 431M-4, Hawaii Revised Statutes, is amended to read as follows:

**“§431M-4 Mental illness, alcohol and drug dependence benefits.** (a) Alcohol and drug dependence benefits shall be as follows:

- (1) Detoxification services as a covered benefit under this chapter shall be provided either in a hospital or in a nonhospital facility that has a written affiliation agreement with a hospital for emergency, medical, and mental health support services. The following services shall be covered under detoxification services:
    - (A) Room and board;
    - (B) Diagnostic x-rays;
    - (C) Laboratory testing; and
    - (D) Drugs, equipment use, special therapies, and supplies.
 Detoxification services shall be included as part of the covered in-hospital services;
  - (2) Alcohol or drug dependence treatment through in-hospital, non-hospital residential, or day treatment substance abuse services as a covered benefit under this chapter shall be provided in a hospital or nonhospital facility. Before a person qualifies to receive benefits under this subsection, a qualified physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse shall determine that the person suffers from alcohol or drug dependence, or both; provided that the substance abuse services covered under this paragraph shall include those services that are required for licensure and accreditation. Excluded from alcohol or drug dependence treatment under this subsection are detoxification services and educational programs to which drinking or drugged drivers are referred by the judicial system and services performed by mutual self-help groups;
  - (3) Alcohol or drug dependence outpatient services as a covered benefit under this chapter shall be provided under an individualized treatment plan approved by a qualified physician, psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse and shall be services reasonably expected to produce remission of the patient's condition. An individualized treatment plan approved by a licensed marriage and family therapist, licensed mental health counselor, licensed clinical social worker, or an advanced practice registered nurse for a patient already under the care or treatment of a physician or psychologist shall be done in consultation with the physician or psychologist; and
  - (4) Substance abuse assessments for alcohol or drug dependence as a covered benefit under this section for a child facing disciplinary action under section 302A-1134.6 shall be provided by a qualified physician, psychologist, licensed clinical social worker, advanced practice registered nurse, or certified substance abuse counselor. The certified substance abuse counselor shall be employed by a hospital or nonhospital facility providing substance abuse services. The substance abuse assessment shall evaluate the suitability for substance abuse treatment and placement in an appropriate treatment setting.
- (b) Mental illness benefits.
- (1) Covered benefits for mental health services set forth in this subsection shall be limited to coverage for diagnosis and treatment of mental disorders. All mental health services shall be provided under an individualized treatment plan approved by a physician, psycholo-

gist, licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or advanced practice registered nurse and must be reasonably expected to improve the patient's condition. An individualized treatment plan approved by a licensed clinical social worker, licensed marriage and family therapist, licensed mental health counselor, or an advanced practice registered nurse for a patient already under the care or treatment of a physician or psychologist shall be done in consultation with the physician or psychologist;

- (2) In-hospital and nonhospital residential mental health services as a covered benefit under this chapter shall be provided in a hospital or a nonhospital residential facility. The services to be covered shall include those services required for licensure and accreditation;
- (3) Mental health partial hospitalization as a covered benefit under this chapter shall be provided by a hospital or a mental health outpatient facility. The services to be covered under this paragraph shall include those services required for licensure and accreditation; and
- (4) Mental health outpatient services shall be a covered benefit under this chapter."

SECTION 4. Chapter 451J, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**"CHAPTER 451J  
LICENSED MARRIAGE AND FAMILY THERAPISTS"**

SECTION 5. Section 451J-1, Hawaii Revised Statutes, is amended by amending the definition of "marriage and family therapist" to read as follows:

""Marriage and family therapist" or "licensed marriage and family therapist" means a person who uses the title of marriage and family therapist[;] or licensed marriage and family therapist, who has been issued a license under this chapter, and whose license is in effect and not revoked or suspended at the time in question."

SECTION 6. Section 451J-3, Hawaii Revised Statutes, is amended to read as follows:

**"[H]§451J-3[H] Powers and duties of the director.** In addition to any other powers and duties authorized by law, the director may:

- (1) Examine and approve the qualifications of all applicants under this chapter, and issue a license to each successful applicant granting permission to use the title of marriage and family therapist or licensed marriage and family therapist in this State pursuant to this chapter and the rules adopted under this chapter;
- (2) Adopt, amend, or repeal rules pursuant to chapter 91;
- (3) Administer, coordinate, and enforce this chapter and rules;
- (4) Discipline a person licensed as a marriage and family therapist for any cause described by this chapter, or for any violation of rules, or refuse to license a person for failure to meet licensing requirements or for any cause that would be grounds for disciplining a licensed marriage and family therapist; and
- (5) Appoint an advisory committee of licensed marriage and family therapists and members of the public to assist with the implementation of this chapter and the rules; except that the initial members of



the committee who are marriage and family therapists shall not be required to be licensed pursuant to this chapter.”

SECTION 7. Section 451J-5, Hawaii Revised Statutes, is amended to read as follows:

“**§451J-5 Prohibited acts.** Except as specifically provided elsewhere in this chapter, no person shall use the title marriage and family therapist or licensed marriage and family therapist without first having secured a license under this chapter. The department shall investigate and prosecute any individual using the title of marriage and family therapist or licensed marriage and family therapist without being properly licensed as a marriage and family therapist. Any person who violates this section shall be subject to a fine of not more than \$1,000 per violation. Each day’s violation shall be deemed a separate offense. Any action taken to impose or collect the fine imposed under this section shall be a civil action.”

SECTION 8. Section 451J-6, Hawaii Revised Statutes, is amended to read as follows:

“**§451J-6 Exemptions.** (a) Licensure shall not be required of:

- (1) A person doing work within the scope of practice or duties of the person’s profession that overlaps with the practice of marriage and family therapy; provided the person does not purport to be a marriage and family therapist[;] or licensed marriage and family therapist;
- (2) Any student enrolled in an accredited educational institution in a recognized program of study leading toward attainment of a graduate degree in marriage and family therapy or other professional field; provided that the student’s activities and services are part of a prescribed course of study supervised by the educational institution and the student is identified by an appropriate title including but not limited to “marriage and family therapy student or trainee”, “clinical psychology student or trainee”, “clinical social work student or trainee”, or any title which clearly indicates training status; or
- (3) Any individual who uses the title marriage and family therapy intern for the purpose of obtaining clinical experience in accordance with section 451J-7(3).

(b) Nothing in this chapter shall be construed to prevent qualified members of other licensed professions as defined by any law, rule, or the department, including but not limited to social workers, psychologists, registered nurses, or physicians, from doing or advertising that they assist or treat individuals, couples, or families consistent with the accepted standards of their respective licensed professions; provided that no person, unless the person is licensed as a marriage and family therapist, shall use the title of marriage and family therapist[-] or licensed marriage and family therapist.”

SECTION 9. Section 451J-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Licenses shall be renewed triennially on or before December 31, with the first renewal deadline occurring on December 31, 2001. Failure to renew a license shall result in a forfeiture of the license. Licenses that have been forfeited may be restored within one year of the expiration date upon payment of renewal and restoration fees, and in the case of marriage and family therapists or licensed

marriage and family therapists audited pursuant to subsection (f), documentation of continuing education compliance. Failure to restore a forfeited license within one year of the date of its expiration shall result in the automatic termination of the license. Persons with terminated licenses shall be required to reapply for licensure as a new applicant.”

SECTION 10. Section 451J-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department shall deny, revoke, condition, or suspend a license granted pursuant to this chapter on the following grounds:

- (1) Conviction by a court of competent jurisdiction of a crime which the department has determined, by rules adopted pursuant to chapter 91, to be of a nature that renders the person convicted unfit to practice marriage and family therapy;
- (2) Failing to report in writing to the director any disciplinary decision related to the provision of mental health services issued against the licensee or the applicant in any jurisdiction within thirty days of the disciplinary decision, or within thirty days of licensure;
- (3) Violation of recognized ethical standards for marriage and family therapists or licensed marriage and family therapists as set by the association;
- (4) Fraud or misrepresentation in obtaining or renewing a license, including making a false certification of compliance with the continuing education requirement set forth in section 451J-10;
- (5) Revocation, suspension, or other disciplinary action by any state or federal agency against a licensee or applicant for any reason provided under this section; or
- (6) Other just and sufficient cause that renders a person unfit to practice marriage and family therapy.”

SECTION 11. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 13. This Act shall take effect upon its approval.

(Approved April 28, 2016.)

**Note**

1. Prior to amendment “counselors” appeared here.

**ACT 30**

S.B. NO. 2838

A Bill for an Act Relating to Investments of the Hawaii Employer-Union Health Benefits Trust Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that moneys held in trust by the Hawaii employer-union health benefits trust fund for other post-employment benefits will continue to grow as both state and county employers make contributions to the fund to prefund their other post-retirement benefit obligations as employers. In light of what will be ongoing and large increases in trust fund moneys, the legislature finds that allowing the fund to invest in asset classes mirroring those

## ACT 31

of the employees' retirement system will allow the fund to best manage these trust fund moneys in order to maximize returns on investments.

The purpose of this Act is to repeal certain restrictions on the fund to invest in certain asset classes, thereby allowing the fund to invest in asset classes mirroring those of the employees' retirement system.

SECTION 2. Section 87A-24, Hawaii Revised Statutes, is amended to read as follows:

**"§87A-24 Other powers.** In addition to the power to administer the fund, the board may:

- (1) Collect, receive, deposit, and withdraw money on behalf of the fund;
- (2) Invest moneys in the same manner specified in section [88-119(1)(A), ~~(1)(B), (1)(C), (2), (3), (4), (5), (6), and (7);~~] 88-119;
- (3) Hold, purchase, sell, assign, transfer, or dispose of any securities or other investments of the fund, as well as the proceeds of those investments and any money belonging to the fund;
- (4) Appoint, and at pleasure dismiss, an administrator and other fund staff. The administrator and staff shall be exempt from chapter 76 and shall serve under and at the pleasure of the board;
- (5) Make payments of periodic charges and pay for reasonable expenses incurred in carrying out the purposes of the fund;
- (6) Contract for the performance of financial audits of the fund and claims audits of its insurance carriers;
- (7) Retain auditors, actuaries, investment firms and managers, benefit plan consultants, or other professional advisors to carry out the purposes of this chapter, including the retaining of an actuary to determine the annual required public employer contribution for the separate trust fund established under section 87A-42;
- (8) Establish health benefits plan and long-term care benefits plan rates that include administrative and other expenses necessary to effectuate the purposes of the fund; and
- (9) Require any department, agency, or employee of the State or counties to furnish information to the board to carry out the purposes of this chapter."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 28, 2016.)

## ACT 31

S.B. NO. 2841

A Bill for an Act Relating to Payments by Employers to the Employees' Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-124, Hawaii Revised Statutes, is amended to read as follows:

**“§88-124 Payment of state contributions to the system.** (a) The State shall pay ~~[on a monthly basis]~~ to the various funds of the system the amounts payable by the State under this part. Payments shall be made:

- (1) On a monthly basis, within thirty days after the end of [the] each month[-]; or
- (2) In advance, in an amount greater than the amount payable for the current fiscal quarter, taking into account amounts previously paid during the quarter and any offsets for any excess contributions in the previous quarter.

(b) The system shall determine the actual amount owed by the State under this part for each fiscal quarter, commencing with the first fiscal quarter of fiscal year 2005-2006. The actual amounts owed by the State for the fiscal quarter shall be compared against the amounts paid in the fiscal quarter[-] and any excess contributions from the previous quarter. Any additional contributions owed by the State for a fiscal quarter shall be paid before the end of the next fiscal quarter. Any excess contributions by the State may be used to offset amounts owed by the State for the next fiscal quarter.”

SECTION 2. Section 88-126, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Commencing with fiscal year 2005-2006, each of the counties shall make contributions in accordance with section 88-123. The amounts payable under this part by each county on account of its employees who are members of the system shall be paid by the county as follows:

- (1) Before October 31, 2005, for the period from July 1, 2005, through September 30, 2005; ~~[and]~~
- (2) Commencing October 1, 2005, each county shall pay on a monthly basis the amounts payable by the county under this part on account of its employees who are members of the system. Payments shall be made within thirty days after the end of the month[-]; and
- (3) Commencing July 1, 2016:
  - (A) On a monthly basis, within thirty days after the end of each month; or
  - (B) In advance, in an amount greater than the amount payable for the current fiscal quarter, taking into account amounts previously paid during the quarter and any offsets for any excess contributions in the previous quarter.

(b) The system shall determine the actual amount owed by a county under this part for each fiscal quarter, beginning with the first fiscal quarter of fiscal year 2005-2006. The actual amounts owed by the county for the fiscal quarter shall be compared against the amounts paid in the fiscal quarter[-] and any excess contributions from the previous quarter. Any additional contributions owed by the county for a fiscal quarter shall be paid before the end of the next fiscal quarter. Any excess contributions by the county may be used to offset amounts owed by the county for the next fiscal quarter.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall take effect on July 1, 2016.

(Approved April 28, 2016.)

## A Bill for an Act Relating to Developmental Disabilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Pursuant to House Concurrent Resolution No. 17 adopted in 2014, the department of health established a task force to review Hawaii's statutory definition of "developmental disabilities".

The task force found that the federal definition of "developmental disabilities" was revised in 2000 to include infants and young children with substantial developmental delays or specific congenital or acquired conditions, where due to their age, functional criteria that are used for adolescents and adults could not be reliably applied to infants and young children. Since Hawaii's current statutory definition of "developmental disabilities" requires that an individual have three or more functional limitations in major life activities, this can exclude infants and young children from receiving necessary services since these life activities cannot reliably be assessed.

The task force recommends amending the current definition of "developmental disabilities" in section 333F-1, Hawaii Revised Statutes, to clarify that an individual from birth to age nine who has substantial developmental delays or specific congenital or acquired conditions may be considered to have a developmental disability without meeting three or more of the criteria described in the current definition if the infant or child, without services and supports, has a high probability of meeting these criteria later in life.

SECTION 2. Section 333F-1, Hawaii Revised Statutes, is amended by amending the definition of "developmental disabilities" to read as follows:

""Developmental disabilities" means a severe, chronic disability of a person which:

- (1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (2) Is manifested before the person attains age twenty-two;
- (3) Is likely to continue indefinitely;
- (4) Results in substantial functional limitations in three or more of the following areas of major life activity[;]: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic sufficiency; and
- (5) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services [which] that are of lifelong or extended duration and are individually planned and coordinated.

An individual from birth to age nine who has a substantial developmental delay or specific congenital or acquired condition may be considered to have a developmental disability without meeting three or more of the criteria described above, if the individual, without services and supports, has a high probability of meeting those criteria later in life."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 28, 2016.)

A Bill for an Act Relating to Conformity to the Internal Revenue Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to conform Hawaii income and estate and generation-skipping transfer tax laws to the Internal Revenue Code.

SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) For all taxable years beginning after December 31, ~~[2014,]~~ 2015, as used in this chapter, except as provided in section 235-2.35, “Internal Revenue Code” means subtitle A, chapter 1, of the federal Internal Revenue Code of 1986, as amended as of December 31, ~~[2014,]~~ 2015, as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income, except those provisions of the Internal Revenue Code and federal public laws which, pursuant to this chapter, do not apply or are otherwise limited in application and except for the provisions of Public Law 109-001, which apply to section 170 of the Internal Revenue Code. The provisions of Public Law 109-001 to accelerate the deduction for charitable cash contributions for the relief of victims of the 2004 Indian Ocean tsunami are applicable for the calendar year that ended December 31, 2004, and the calendar year ending December 31, 2005.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine:

- (1) The basis of property, if a taxpayer first determined the basis of property in a taxable year to which these sections apply, and if the determination was made before January 1, 1978; and
- (2) Gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which these sections apply where the taxable year begins before January 1, 1978.”

SECTION 3. Section 236E-3, Hawaii Revised Statutes, is amended to read as follows:

**“§236E-3 Conformance to the Internal Revenue Code; general application.** For all decedents dying after ~~[January 25, 2012,]~~ December 31, 2015, as used in this chapter, “Internal Revenue Code” means subtitle B of the federal Internal Revenue Code of 1986, as amended as of December 31, ~~[2014,]~~ 2015, as it applies to the determination of gross estate, adjusted gross estate, federal taxable estate, and generation-skipping transfers, except those provisions of the Internal Revenue Code and federal public laws that, pursuant to this chapter, do not apply or are otherwise limited in application.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval; provided that:

- (1) Section 2 shall apply to taxable years beginning after December 31, 2015; and
- (2) Section 3 shall apply to decedents dying or taxable transfers occurring after December 31, 2015.

(Approved April 29, 2016.)

A Bill for an Act Relating to Public Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 353-66, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Any paroled prisoner retaken and reimprisoned as provided in this chapter shall be confined according to the paroled prisoner’s sentence for that portion of the paroled prisoner’s term remaining unserved at time of parole, but successive paroles may, in the discretion of the paroling authority, be granted to the prisoner during the life and in respect of the sentence. If the paroled prisoner is retaken and reimprisoned for violating a condition of parole but has not:

- (1) Been charged with a new felony offense or a new misdemeanor offense under chapter 134, chapter 707, or section 709-906;
- (2) Absconded or left the State without permission from the paroling authority;
- (3) Violated conditions applicable to sex offenders, such as registering as a sex offender or conditions related to proximity to specified locations or persons; or
- (4) Been previously reimprisoned for violating the conditions of parole on the current offense,

the paroled prisoner shall be confined for no more than six months or for that portion of the paroled prisoner’s term remaining unserved at the time of parole, whichever is shorter, so long as the paroling authority has approved a parole plan as set forth under section 706-670(3) and (4). The minimum term of imprisonment shall be as determined by the court or the paroling authority, as the case may be. The prisoner shall be given credit for time served in custody pending a hearing on revocation of parole as it relates to the six-month parole revocation. No prisoner shall be incarcerated beyond the expiration of the prisoner’s maximum terms<sup>1</sup> of imprisonment.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 2016.)

**Note**

1. Prior to amendment “term” appeared here.

A Bill for an Act Relating to Court Orders to Provide Medical Treatment in Correctional Facilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 353-13.6, Hawaii Revised Statutes, is amended to read as follows:

**“[§353-13.6] Involuntary medical treatment criteria.** (a) An inmate or detainee in the custody of the department may be ordered to receive involuntary medical treatment, including the taking or application of medication, if the court finds that:

- (1) The inmate or detainee poses a danger of physical harm to self or danger of physical harm to others;
- (2) Treatment with medication is medically appropriate; and
- (3) Considering less intrusive alternatives, treatment is essential to forestall the danger posed by the inmate or detainee.

(b) For the purposes of this section:

“Danger of physical harm to others” means likely to cause substantial physical or emotional injury to another, as evidenced by an act, attempt, or threat occurring recently or through a pattern of past behavior that has resulted in the person being placed in a more restricted setting for the safety of others in the facility.

“Danger of physical harm to self” means the person recently has threatened or attempted suicide or serious bodily self injury; or the person recently has behaved in such a manner as to indicate that the person is unable, without supervision and the assistance of others, to satisfy the need for nourishment, essential medical care, or self-protection, so that it is probable that death, substantial bodily injury, or serious physical or mental debilitation or disease will result unless adequate treatment is provided.”

SECTION 2. Section 353-13.7, Hawaii Revised Statutes, is amended to read as follows:

**“[§353-13.7] Initiation of proceeding for involuntary medical treatment.** (a) The director, or the director’s designee, may file a petition for involuntary medical treatment alleging that a person in the custody of the department meets the criteria for involuntary medical treatment under section 353-13.6. The petition shall be executed subject to the penalties of perjury but need not be sworn to before a notary public and shall be filed in the circuit court of the circuit wherein the person who is the subject of the petition is in custody. The attorney general, the attorney general’s deputy, special deputy, or appointee designated to present the case shall assist the petitioner to state the substance of the petition in plain and simple language. The petition may be accompanied by an affidavit or declaration of the licensed physician or psychologist who has examined the person within ~~two~~ five days prior to submission of the petition, unless the person whose treatment is sought has refused to submit to a medical or psychological examination, in which case the fact of refusal shall be alleged in the petition. The affidavit or declaration shall set forth the signs and symptoms relied upon by the physician or psychologist to determine whether the person is in need of treatment, whether the person is capable of realizing and making a rational decision with respect to the person’s need for treatment, and the recommended treatment. If the petitioner believes that further evaluation is necessary before treatment, the petitioner may request such further evaluation.

(b) If the person has been given an examination, evaluation, or treatment in a psychiatric facility or by the department within five days before the filing of the petition, and treatment is recommended by the staff of the facility or the department, the petition may be accompanied by an affidavit or declaration of the department’s medical director or the mental health administrator in lieu of a physician’s or psychologist’s affidavit~~[-]~~ or declaration.”



SECTION 3. Section 353-13.8, Hawaii Revised Statutes, is amended by amending the title and subsections (a) and (b) to read as follows:

**“[§353-13.8] Notice; waiver of notice; hearing on petition; waiver of hearing on petition for involuntary [hospitalization.] medical treatment.** (a) The court shall set a hearing on the petition, and notice of the hearing shall be served personally on the person who is the subject of the petition, and personally or by certified or registered mail, return receipt requested, deliverable to the addressee only[;], on ~~[the person's spouse, civil union partner, or reciprocal beneficiary; legal parents; adult children; and legal guardian, if one has been appointed. If the person has no living spouse, civil union partner, or reciprocal beneficiary; legal parent; adult children; or legal guardian, or if none can be found, notice of the hearing shall be served on at least one of the person's closest adult relatives if any can be found.]~~ either the person's legal guardian or emergency contact listed while in the custody of the department, if such person can be located and served. Notice of the hearing shall also be served on the public defender, person's attorney, or other court-appointed attorney, as the case may be. If the person who is the subject of the petition is a minor, notice of the hearing shall also be served upon the person who has had the principal care and custody of the minor during the sixty days preceding the date of the petition if ~~[the]~~ that person can be found within the State. Notice shall also be given to the other persons as the court may designate.

- (b) The notice required by subsection (a) shall include:
- (1) The date, time, place of hearing, a clear statement of the purpose of the proceedings and of possible consequences to the person who is the subject of the petition, and a statement of the legal standard upon which ~~[commitment]~~ treatment is authorized;
  - (2) A copy of the petition;
  - (3) Written notice, in plain and simple language, that the person may waive the hearing by voluntarily agreeing to the care or treatment proposed;
  - (4) A completed form indicating the waiver described in paragraph (3) if the person waived the hearing;
  - (5) Written notice, in plain and simple language, that the person or the person's guardian or representative may apply at any time for a hearing on the issue of the person's need for care or treatment if the person has previously waived a hearing;
  - (6) Notice that the person is entitled to the assistance of an attorney and that the public defender has been notified of these proceedings;
  - (7) Notice that if the person does not want to be represented by the public defender, the person may contact the person's own attorney; and
  - (8) Notice, if applicable, that the petitioner intends to present evidence to show that the person is an incapacitated or protected person, or both, under article V of chapter 560, and whether the appointment of a guardian is sought at the hearing. If appointment of a guardian is to be recommended, and a nominee is known at the time the petition is filed, the identity of the nominee shall be disclosed.”

SECTION 4. Section 353-13.9, Hawaii Revised Statutes, is amended to read as follows:

**“[§353-13.9] Hearing on petition.** (a) The court may adjourn or continue a hearing for failure to timely notify ~~[a spouse, civil union partner,~~

reciprocal beneficiary, guardian, relative,] either the person's legal guardian or emergency contact listed while in the custody of the department, or other person determined by the court to be entitled to notice, or for failure by the person who is the subject of the petition to contact an attorney as provided in section 353-13.8, if the court determines that an adjournment or continuance is in the interest of justice.

(b) Unless the hearing is waived, the [judge] court shall hear the petition as soon as possible and no later than ten days after the date the petition is filed unless a reasonable delay is sought for good cause shown by the person who is the subject of the petition, the person's attorney, the petitioner, the guardian or guardian ad litem, or those persons entitled to receive notice of the hearing under section 353-13.8.

(c) The person who is the subject of the petition shall be present at all hearings unless the person waives the right to be present, is unable to attend, or creates conditions that make it impossible to conduct the hearing in a reasonable manner as determined by the [judge.] court. A waiver is valid only upon acceptance by the court following a judicial determination that the person understands the person's rights and is competent to waive them, or is unable to participate. [If the person is unable to participate, the judge shall] At any point during the proceedings and after the filing of the petition, the court may appoint a guardian ad litem or a temporary guardian, as provided in article V of chapter 560, to represent the person throughout the proceedings[-], if the court finds that the person is unable to participate or that other good cause exists.

(d) Hearings may be held at a convenient location within the circuit where the person who is the subject of the petition resides or any other circuit deemed appropriate by the court. The person or any interested person may request a hearing in another circuit because of convenience to the parties, witnesses, or the court, or because of the person's mental or physical condition.

(e) The attorney general, the attorney general's deputy, special deputy, or appointee shall present the case for hearings convened under this section.

(f) Counsel for the person who is the subject of the petition shall be allowed adequate time for investigation of the matters at issue and for preparation, and shall be permitted to present evidence that the counsel believes necessary to a proper disposition of the proceedings.

(g) No person who is the subject of the petition shall be found to require care or treatment unless at least one physician or psychologist who has personally examined or attempted to examine the person testifies in person at the hearing. This testimony may be waived by the person. If the subject has refused to be examined by a licensed physician or psychologist, the person may be examined by a court-appointed licensed physician or psychologist. If the person refuses and there is sufficient evidence to believe that the allegations of the petition are true, the person's refusal shall be treated as a denial that the person is [mentally ill or suffering from substance abuse.] in need of involuntary medical treatment. Nothing in this section shall limit the person's privilege against self-incrimination.

(h) The person who is the subject of the petition in a hearing under this section has the right to secure an independent medical or psychological evaluation at the person's own expense and present evidence thereon.

(i) If the court finds that the criteria for involuntary medical treatment under section 353-13.6 have been met by clear and convincing evidence, the court may issue an order to authorize the department to involuntarily medically treat the person for a period of up to one year unless the person is sooner released or sooner determined to no longer be in need of treatment. If so specified by the court, however, the order may remain in effect if the person who is the subject of

the petition is released but returns to custody during the maximum period of the order, if the underlying criminal case is still active or the sentence has not been fully served, unless the person is sooner determined to no longer be in need of treatment.

(j) The court may find that the person who is the subject of the petition is an incapacitated or protected person, or both, under article V of chapter 560, and may appoint a guardian or conservator, or both, for the person under the terms and conditions as the court shall determine.

(k) Prior to the expiration of an existing involuntary treatment order, the department may move for an extension of the order for a period of up to one year. An extension may be ordered by the court upon a showing that the subject of the order continues to meet the criteria set forth in section 353-13.6. Any extension request shall follow the notice requirements set forth in section 353-13.8."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 29, 2016.)

## ACT 36

S.B. NO. 2912

A Bill for an Act Relating to the Statewide Integrated Sex Offender Treatment Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 353E-1, Hawaii Revised Statutes, is amended to read as follows:

**"[§353E-1] Sex offender treatment; statewide program established.** There is established [a] the statewide integrated sex offender treatment program for the treatment of adult sex offenders in the custody of the State and juvenile sex offenders in cases where family court jurisdiction was waived pursuant to section 571-22, to be implemented on a cooperative basis by the department of public safety, [the] judiciary, [and the] Hawaii paroling authority, department of health, department of human services, and any other agency that may be assigned sex offender oversight responsibilities. The [agencies] sex offender treatment program shall:

- (1) Develop and continually update, as necessary, a comprehensive statewide master plan for the assessment, evaluation, treatment, and supervision of sex offenders that provides for a continuum of programs under a [uniform treatment] best practices philosophy;
- (2) Develop and implement a statewide, integrated system of sex offender assessment, evaluation, treatment, and supervision services and programs that reflect the goals and objectives of the master plan;
- (3) Identify all offenders in their custody who would benefit from sex offender treatment;
- (4) Work cooperatively to monitor and evaluate the development and implementation of sex offender assessment, evaluation, supervision, and treatment programs and services;

- (5) Develop appropriate training and education programs for public and private providers of sex offender treatment, assessment, evaluation, and supervision services;
- (6) Conduct research and compile relevant data on sex offenders;
- (7) Work cooperatively to develop a statewide management information system for sex offender treatment;
- (8) Make every effort to secure grant funds for research, program development, training, and public education in the area of sex assault prevention;
- (9) Network with public and private agencies that come into contact with sex offenders to keep abreast of issues that impact ~~on~~ and increase community awareness regarding~~ing~~ the statewide sex offender treatment program;
- (10) As far as practicable, share information and pool resources to carry out responsibilities under this chapter; ~~and~~
- (11) Coordinate their funding requests for sex offender treatment programs to deter competition for resources that might result in an imbalance in program development that is detrimental to the master plan treatment concept~~[-]; and~~
- (12) Develop and implement standards and guidelines for the assessment, evaluation, treatment, and supervision of sex offenders."

SECTION 2. Section 353E-2, Hawaii Revised Statutes, is amended to read as follows:

**"§353E-2 Interagency coordination.** (a) To carry out their responsibilities under section 353E-1, the department of public safety, Hawaii paroling authority, judiciary, department of health, department of human services, and any other agency assigned sex offender oversight responsibilities by law or administrative order, shall establish, by an interagency cooperative agreement, a coordinating body, to be known as the sex offender management team, to oversee the development and implementation of sex offender assessment, evaluation, treatment, and supervision services and programs in the State ~~[to ensure compliance with the intent of the master plan developed under]~~ consistent with section 353E-1(1). The interagency cooperative agreement shall set forth the role of the ~~[coordinating body]~~ sex offender management team and the responsibilities of each agency that is a party to the agreement.

(b) The department of public safety shall be the lead agency for the statewide integrated sex offender treatment program. As the lead agency, the department shall act as facilitator of the ~~[coordinating body]~~ sex offender management team by providing administrative support to the ~~[coordinating body]~~ sex offender management team.

(c) Notwithstanding any other provision to the contrary, for purposes of sex offender treatment and community supervision, any agency that is part of the interagency cooperative agreement shall provide, upon the request of any other participating agency, all relevant criminal, parole, medical, psychological, or mental health records of any offender receiving supervision or treatment while under custody of the State. Records received by a participating agency under this section shall be confidential and shall be disclosed by the receiving agency only for the purposes and under the circumstances expressly authorized by this section. Any agency providing records under this section shall document the disclosures made under this section, including the name of the agency to which the record is disclosed, the title of the record disclosed, and the date of disclosure.

(d) The sex offender management team may hold meetings closed to the public pursuant to section 92-4 for the purpose of discussing information relating to individual sex offenders where disclosure of the information would be a clearly unwarranted invasion of personal privacy.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 29, 2016.)

**ACT 37**

S.B. NO. 2906

A Bill for an Act Relating to Section 13 of Act 380, Session Laws of Hawaii 1997.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 380, Session Laws of Hawaii 1997, as amended by Act 3, Session Laws of Hawaii 2001, as amended by Act 90, Session Laws of Hawaii 2006, and as amended by Act 145, Session Laws of Hawaii 2012, is amended by amending section 13 to read as follows:

~~“SECTION 13. This Act shall take effect upon its approval; provided that no new safe harbor agreements, habitat conservation plans, or incidental take licenses issued pursuant to section 195D-4, 195D-21, or 195D-22, Hawaii Revised Statutes, shall be approved or issued on or after June 30, 2017.”~~

SECTION 2. (a) No later than twenty days prior to the convening of each odd-numbered regular session, the department of land and natural resources shall submit a report to the legislature that contains:

- (1) The number and kinds of safe harbor agreements approved pursuant to section 195D-22, Hawaii Revised Statutes; and
  - (2) Summary information regarding the content and performance of each safe harbor agreement identified in paragraph (1).
- (b) The first report shall be submitted to the legislature no later than twenty days prior to the convening of the regular session of 2017.

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 29, 2016.)

**ACT 38**

S.B. NO. 2675

A Bill for an Act Relating to Licensing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that a recent Honolulu Star-Advertiser investigation found dozens of examples of physicians who were disciplined in other states, but were issued new Hawaii medical licenses or their active Hawaii

medical licenses were not assessed reciprocal sanctions for long periods of time after the physicians were disciplined. Hawaii regulators often took more than two years to issue reciprocal discipline on licensed physicians after other states imposed sanctions.

Often Hawaii consumers would learn that a Hawaii-licensed physician faced sanctions in another state only after Hawaii levied reciprocal discipline. Furthermore, Hawaii failed to take immediate action when other states declared emergencies to justify the immediate revocation of a license. The most egregious cases uncovered during the investigation involved physicians who lost the ability to practice in other states, either because of serious misconduct or to settle misconduct charges, but maintained their Hawaii licenses for months or even years after the fact.

The legislature further finds that timely action in reciprocal discipline cases is a vital aspect of consumer protection. Furthermore, delayed action in reciprocal discipline cases, particularly in emergency situations, can put patients unnecessarily at risk. The legislature additionally finds that ensuring timely reciprocal discipline of physicians and other health care professionals, including osteopathic physicians, physician assistants, nurses, dentists, and pharmacists, is necessary to protect the public.

Accordingly, the purpose of this Act is to:

- (1) Authorize the board of dental examiners, Hawaii medical board, and board of pharmacy to deny a license to an applicant who has been disciplined by another state or federal agency and the board of nursing to deny a license to an applicant who has been disciplined by another state;
- (2) Authorize the board of dental examiners, Hawaii medical board, board of nursing, and board of pharmacy to impose disciplinary action against a licensee who was disciplined by another state or federal agency;
- (3) Establish conditions for the disciplinary action;
- (4) Prohibit a licensee from practicing until a final order of discipline is issued if disciplinary action taken by another state prohibited the licensee from practicing in that state; and
- (5) Ensure consumer protection by requiring any final order of discipline taken to be public record.

SECTION 2. Chapter 448, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§448- Discipline based on action taken by another state or federal agency; conditions; prohibition on practice.** (a) Upon receipt of evidence of revocation, suspension, or other disciplinary action against a licensee by another state or federal agency, the board may issue an order imposing disciplinary action upon the licensee on the following conditions:

- (1) The board shall serve the licensee with a proposed order imposing disciplinary action as required by chapter 91;
- (2) The licensee shall have the right to request a hearing pursuant to chapter 91 to show cause why the action described in the proposed order should not be imposed;
- (3) Any request for a hearing shall be made in writing and filed with the board within twenty days after mailing of the proposed order to the licensee; and
- (4) If the licensee does not submit a written request for a hearing within twenty days after mailing of the proposed order, the board shall is-

sue a final order imposing the disciplinary action described in the proposed order.

(b) A certified copy of the disciplinary action by another state or federal agency shall constitute prima facie evidence of the disciplinary action.

(c) A licensee against whom the board has issued a proposed order under this section shall be prohibited from practicing in this State until the board issues a final order if:

(1) The licensee was the subject of disciplinary action by another state; and

(2) The disciplinary action by another state prohibits the licensee from practicing in that state.

(d) In addition to the provisions of this section, the board may take any other action authorized by this chapter or chapter 436B.

(e) Notwithstanding any law to the contrary, the final order of discipline taken pursuant to this section shall be a matter of public record."

SECTION 3. Chapter 453, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§453- Discipline based on action taken by another state or federal agency; conditions; prohibition on practice.** (a) Upon receipt of evidence of revocation, suspension, or other disciplinary action against a licensee by another state or federal agency, the board may issue an order imposing disciplinary action upon the licensee on the following conditions:

(1) The board shall serve the licensee with a proposed order imposing disciplinary action as required by chapter 91;

(2) The licensee shall have the right to request a hearing pursuant to chapter 91 to show cause why the action described in the proposed order should not be imposed;

(3) Any request for a hearing shall be made in writing and filed with the board within twenty days after mailing of the proposed order to the licensee; and

(4) If the licensee does not submit a written request for a hearing within twenty days after mailing of the proposed order, the board may issue a final order imposing the disciplinary action described in the proposed order.

(b) A certified copy of the disciplinary action by another state or federal agency shall constitute prima facie evidence of the disciplinary action.

(c) A licensee against whom the board has issued a proposed order under this section shall be prohibited from practicing in this State until the board issues a final order if:

(1) The licensee was the subject of disciplinary action by another state; and

(2) The disciplinary action by another state prohibits the licensee from practicing in that state.

(d) In addition to the provisions of this section, the board may take any other action authorized by this chapter or chapter 436B.

(e) Notwithstanding any law to the contrary, any final order of discipline taken pursuant to this section shall be a matter of public record."

SECTION 4. Chapter 457, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§457- Discipline based on action taken in another state; conditions; prohibition on practice.** (a) Upon receipt of evidence of revocation, suspension, or other disciplinary action against a licensee in another state, the board may issue an order imposing disciplinary action upon the licensee on the following conditions:

- (1) The board shall serve the licensee with a proposed order imposing disciplinary action as required by chapter 91;
  - (2) The licensee shall have the right to request a hearing pursuant to chapter 91 to show cause why the action described in the proposed order should not be imposed;
  - (3) Any request for a hearing shall be made in writing and filed with the board within twenty days after mailing of the proposed order to the licensee; and
  - (4) If the licensee does not submit a written request for a hearing within twenty days after mailing of the proposed order, the board shall issue a final order imposing the disciplinary action described in the proposed order.
- (b) A certified copy of the disciplinary action in another state shall constitute prima facie evidence of the disciplinary action.
- (c) A licensee against whom the board has issued a proposed order under this section shall be prohibited from practicing in this State until the board issues a final order if:
- (1) The licensee was the subject of disciplinary action in another state; and
  - (2) The disciplinary action in the other state prohibits the licensee from practicing in that state.
- (d) In addition to the provisions of this section, the board may take any other action authorized by this chapter or chapter 436B.
- (e) Notwithstanding any law to the contrary, the final order of discipline taken pursuant to this section shall be a matter of public record.”

SECTION 5. Chapter 461, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§461- Discipline based on action taken by another state or federal agency; conditions; prohibition on practice.** (a) Upon receipt of evidence of revocation, suspension, or other disciplinary action against a licensee by another state or federal agency, the board may issue an order imposing disciplinary action upon the licensee on the following conditions:

- (1) The board shall serve the licensee with a proposed order imposing disciplinary action as required by chapter 91;
  - (2) The licensee shall have the right to request a hearing pursuant to chapter 91 to show cause why the action described in the proposed order should not be imposed;
  - (3) Any request for a hearing shall be made in writing and filed with the board within twenty days after mailing of the proposed order to the licensee; and
  - (4) If the licensee does not submit a written request for a hearing within twenty days after mailing of the proposed order, the board shall issue a final order imposing the disciplinary action described in the proposed order.
- (b) A certified copy of the disciplinary action by another state or federal agency shall constitute prima facie evidence of the disciplinary action.



(c) A licensee against whom the board has issued a proposed order under this section shall be prohibited from practicing in this State until the board issues a final order if:

- (1) The licensee was the subject of disciplinary action by another state; and
- (2) The disciplinary action by another state prohibits the licensee from practicing in that state.
- (d) In addition to the provisions of this section, the board may take any other action authorized by this chapter or chapter 436B.
- (e) Notwithstanding any law to the contrary, the final order of discipline taken pursuant to this section shall be a matter of public record."

SECTION 6. Section 448-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The board shall refuse to issue a license to any applicant who fails to meet all of the requirements imposed by this chapter and may refuse to issue a license to any applicant who has ~~previously committed any act that would, if committed by a licensee, result in the revocation or suspension of the license,~~ been disciplined by another state or federal agency. Notwithstanding any law to the contrary, a final order denying the issuance of a license to any applicant based on the applicant's discipline by another state or federal agency shall be a matter of public record."

SECTION 7. Section 453-8, Hawaii Revised Statutes, is amended to read as follows:

**"§453-8 Revocation, limitation, suspension, or denial of licenses.** (a) In addition to any other actions authorized by law, any license to practice medicine and surgery may be revoked, limited, or suspended by the board at any time in a proceeding before the board, or may be denied, for any cause authorized by law, including but not limited to the following:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing any person to solicit patients for one's self;
- (3) Engaging in false, fraudulent, or deceptive advertising, including but not limited to:
  - (A) Making excessive claims of expertise in one or more medical specialty fields;
  - (B) Assuring a permanent cure for an incurable disease; or
  - (C) Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;
- (4) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or a habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
- (5) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- (6) Procuring a license through fraud, misrepresentation, or deceit, or knowingly permitting an unlicensed person to perform activities requiring a license;
- (7) Professional misconduct, hazardous negligence causing bodily injury to another, or manifest incapacity in the practice of medicine or surgery;

- (8) Incompetence or multiple instances of negligence, including but not limited to the consistent use of medical service, which is inappropriate or unnecessary;
- (9) Conduct or practice contrary to recognized standards of ethics of the medical profession as adopted by the Hawaii Medical Association, the American Medical Association, the Hawaii Association of Osteopathic Physicians and Surgeons, or the American Osteopathic Association;
- (10) Violation of the conditions or limitations upon which a limited or temporary license is issued;
- (11) Revocation, suspension, or other disciplinary action by another state or federal agency of a license, certificate, or medical privilege ~~[for reasons as provided in this section];~~
- (12) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a physician or osteopathic physician, notwithstanding any statutory provision to the contrary;
- (13) Violation of chapter 329, the uniform controlled substances act, or any rule adopted thereunder except as provided in section 329-122;
- (14) Failure to report to the board, in writing, any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty days after the disciplinary decision is issued; or
- (15) Submitting to or filing with the board any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement or omission of fact.

(b) If disciplinary action related to the practice of medicine has been taken against the applicant ~~[in any jurisdiction that would constitute a violation under this section,]~~ by another state or federal agency, or if the applicant reveals a physical or mental condition that would constitute a violation under this section, then the board may impose one or more of the following requirements as a condition for licensure:

- (1) Physical and mental evaluation of the applicant by a licensed physician or osteopathic physician approved by the board;
- (2) Probation, including conditions of probation as requiring observation of the licensee by an appropriate group or society of licensed physicians, osteopathic physicians, or surgeons;
- (3) Limitation of the license by restricting the fields of practice in which the licensee may engage;
- (4) Further education or training or proof of performance competency; and
- (5) Limitation of the medical practice of the licensee in any reasonable manner to assure the safety and welfare of the consuming public.

(c) Notwithstanding any other law to the contrary, the board may deny a license to any applicant who has been disciplined by another state or federal agency. Any final order of discipline taken pursuant to this subsection shall be a matter of public record.

~~[(e)]~~ (d) Where the board has reasonable cause to believe that a licensee is or may be unable to practice medicine with reasonable skill and safety to protect patients, the board may order the licensee to submit to a mental or physical examination or any combination thereof, by a licensed practitioner approved by the board, at the licensee's expense. The examination may include biological fluid testing and other testing known to detect the presence of alcohol or other drugs. In addition:

- (1) Any licensee shall be deemed to have consented to submit to a mental or physical examination when so directed by the board and to have waived all objection to the use or referral of information by the board to determine whether the licensee is able to practice medicine with reasonable skill and safety to protect patients;
- (2) The board may seek to enforce an order directing a licensee to submit to a mental or physical examination in the circuit court in the county in which the licensee resides;
- (3) Failure of a licensee to submit to an examination ordered under this subsection shall constitute grounds for summary suspension of the licensee's license; and
- (4) The board may take any action authorized under this chapter based on information obtained under this subsection.

~~[(d)]~~ (e) Any person licensed by the board, including a physician, surgeon, or physician assistant, who provides information to the board indicating that a board licensee may be guilty of unprofessional conduct or may be impaired because of drug or alcohol abuse or mental illness shall not be liable for any damages in any civil action based on the communication. The immunity afforded by this section shall be in addition to any immunity afforded by section 663-1.7, if applicable, and shall not be construed to affect the availability of any absolute privilege under sections 663-1.7 and 671D-10."

SECTION 8. Section 457-12, Hawaii Revised Statutes, is amended to read as follows:

**"§457-12 Discipline; grounds; proceedings; hearings.** (a) In addition to any other actions authorized by law, the board shall have the power to deny, revoke, limit, or suspend any license to practice nursing as a registered nurse or as a licensed practical nurse applied for or issued by the board in accordance with this chapter, and to fine or to otherwise discipline a licensee for any cause authorized by law, including but not limited to the following:

- (1) Fraud or deceit in procuring or attempting to procure a license to practice nursing as a registered nurse or as a licensed practical nurse;
- (2) Gross immorality;
- (3) Unfitness or incompetence by reason of negligence, habits, or other causes;
- (4) Habitual intemperance, addiction to, or dependency on alcohol or other habit-forming substances;
- (5) Mental incompetence;
- (6) Unprofessional conduct as defined by the board in accordance with its own rules;
- (7) Wilful or repeated violation of any of the provisions of this chapter or any rule adopted by the board;
- (8) Revocation, suspension, limitation, or other disciplinary action by another state of a nursing license ~~[for reasons as provided in this section]~~;
- (9) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a nurse, notwithstanding any statutory provision to the contrary;
- (10) Failure to report to the board any disciplinary action taken against the licensee in another jurisdiction within thirty days after the disciplinary action becomes final;
- (11) Submitting to or filing with the board any notice, statement, or other document required under this chapter, which is false or untrue or

contains any material misstatement of fact, including a false attestation of compliance with continuing competency requirements; or

- (12) Violation of the conditions or limitations upon which any license is issued.

(b) Notwithstanding any other law to the contrary, the board may deny a license to any applicant who has been disciplined by another state. Any final order entered pursuant to this subsection shall be a matter of public record.

~~[(b)]~~ (c) Any fine imposed by the board after a hearing in accordance with chapter 91 shall be no less than \$100 and no more than \$1,000 for each violation.

~~[(e)]~~ (d) The remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.”

SECTION 9. Section 461-4.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other powers and duties authorized by law, the board:

- (1) Shall adopt, amend, and repeal rules pursuant to chapter 91, as it deems proper for the purposes of this chapter, Public Law 100-293, and 21 Code of Federal Regulations part 205;
- (2) Shall examine, license, reinstate, and renew the licenses of qualified applicants for registered pharmacists and wholesale prescription drug distributors, and issue and renew permits to operate pharmacies;
- (3) May require the inspection of any wholesale prescription drug distributor premises in the State to ensure compliance with this chapter and rules adopted under this chapter, or may require an applicant for a pharmacy license to submit a statement that the premises, including but not limited to security and sanitation, are in conformance with the board’s requirements and that the applicant possesses the reference materials and technical clinical equipment and supplies as may be specified in rules adopted under this chapter; ~~and~~
- (4) May fine, suspend, or revoke any license or permit for any cause prescribed by this chapter, or for any violation of the rules adopted under this chapter, and refuse to grant or renew any license or permit for any cause which would be ground for revocation or suspension of a license or permit~~[-]; and~~
- (5) May deny a license to any applicant who has been disciplined by another state or federal agency. Notwithstanding any law to the contrary, a final order of disciplinary action taken pursuant to this paragraph shall be a matter of public record.”

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 11. This Act shall take effect upon its approval.

(Approved April 29, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Bureau of Conveyances.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that owners of registered fee non-time share interests should continue to have the option to voluntarily deregister such interests under part II of chapter 501, Hawaii Revised Statutes. Currently, the sunset date relating to deregistration of fee non-time share interests is December 31, 2016.

The purpose of this Act is to eliminate the sunset date set forth in Act 119, Session Laws of Hawaii 2013, and Act 47, Session Laws of Hawaii 2014, relating to the deregistration of fee non-time share interests.

SECTION 2. Act 119, Session Laws of Hawaii 2013, as amended by section 3 of Act 47, Session Laws of Hawaii 2014, is amended by amending section 13 to read as follows:

“SECTION 13. This Act shall take effect upon its approval; ~~provided that section 2 of this Act shall be repealed on December 31, 2016.~~”

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 29, 2016.)

A Bill for an Act Relating to Student Data Management.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new subpart to part II to be appropriately designated and to read as follows:

“ . STUDENT ONLINE PERSONAL INFORMATION PROTECTION

§302A- Definitions. As used in this subpart, unless the context otherwise requires:

“Covered information” means personally identifiable information or material, or information that is linked to personally identifiable information or material, in any media or format that is not publically available and is:

- (1) Created by or provided to an operator by a student, or the student’s parent or legal guardian, in the course of the student’s, parent’s, or legal guardian’s use of the operator’s site, service, or application for K–12 school purposes;
- (2) Created by or provided to an operator by an employee or agent of a K-12 school or complex for K-12 school purposes; or
- (3) Gathered by an operator through the operation of its site, service, or application for K-12 school purposes and personally identifies a student, including information in the student’s educational record or electronic mail, first and last name, home address, telephone

number, electronic mail address, or other information that allows physical or online contact, discipline records, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security number, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, or geolocation information.

“Interactive computer service” means that term as defined in title 47 United States Code section 230.

“K-12 school” means a school that offers any of grades kindergarten to twelve and that is a public school, as defined in section 302A-101.

“K-12 school purposes” means purposes that are directed by or that customarily take place at the direction of a K-12 school, teacher, or complex area superintendent or that aid in the administration of school activities, including instruction in the classroom or at home, administrative activities, and collaboration between students, school personnel, parents or legal guardians, or are otherwise for the use and benefit of the school.

“Operator” means, to the extent that it is operating in this capacity, the operator of a website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used primarily for K-12 school purposes and was designed and marketed for K-12 school purposes.

“Targeted advertising” means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student’s online behavior, usage of applications, or covered information. “Targeted advertising” does not include advertising to a student at an online location based upon that student’s current visit to that location, or in response to that student’s request for information or feedback, without the retention of that student’s online activities or requests over time for the purpose of targeting subsequent advertisements.

**§302A- Prohibited activity; permitted disclosures and uses; limitations.**

(a) An operator shall not knowingly do any of the following:

- (1) Engage in targeted advertising on the operator’s site, service, or application; or target advertising on any other site, service, or application, if the targeting of the advertising is based on any information, including covered information and persistent unique identifiers that the operator has acquired because of the use of that operator’s site, service, or application for K-12 school purposes;
- (2) Use information, including persistent unique identifiers, created or gathered by the operator’s site, service, or application, to amass a profile about a student except in furtherance of K-12 school purposes. As used in this section, “amass a profile” does not include the collection and retention of account information that remains under the control of the student, the student’s parent or guardian, or a K-12 school;
- (3) Sell or rent a student’s information, including covered information. This paragraph does not apply to the purchase, merger, or other type of acquisition of an operator by another entity if the operator or successor entity complies with this section regarding previously acquired student information; or
- (4) Except as otherwise provided in subsection (c), disclose covered information unless the disclosure is made for the following purposes:

- (A) In furtherance of the K-12 school purpose of the site, service, or application, if the recipient of the covered information disclosed under this subsection does not further disclose the information unless done to allow or improve operability and functionality of the operator's site, service, or application;
- (B) To ensure legal and regulatory compliance or protect against liability;
- (C) To respond to or participate in the judicial process;
- (D) To protect the safety or integrity of users of the site or others or the security of the site, service, or application;
- (E) For a school, educational, or employment purpose requested by the student or the student's parent or guardian; provided that the information is not used or further disclosed for any other purpose; or
- (F) To provide to a third party, if the operator contractually prohibits the third party from using any covered information for any purpose other than providing the contracted service to or on behalf of the operator, prohibits the third party from disclosing any covered information provided by the operator with subsequent third parties, and requires the third party to implement and maintain reasonable security procedures and practices.

Nothing in this section shall prohibit the operator's use of information for the purposes of maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application.

(b) An operator shall:

- (1) Implement and maintain reasonable security procedures and practices appropriate to the nature of the covered information designed to protect that covered information from unauthorized access, destruction, use, modification, or disclosure; and
- (2) Delete within a reasonable time period a student's covered information if the K-12 school or complex requests deletion of covered information under the control of the K-12 school or complex, unless a student or a student's parent or guardian consents to the maintenance of the covered information.

(c) An operator may use or disclose covered information of a student under the following circumstances:

- (1) If other provisions of federal or state law require the operator to disclose the information and the operator complies with the requirements of federal and state law in protecting and disclosing that information;
- (2) For legitimate research purposes as required by state or federal law and subject to the restrictions under applicable state and federal law or as allowed by state or federal law and under the direction of a K-12 school, complex, or the department, if covered information is not used for advertising or to amass a profile on the student for purposes other than K-12 school purposes; or
- (3) To a state or local educational agency, including K-12 schools and complexes, for K-12 school purposes, as permitted by state or federal law.

(d) This section shall not prohibit an operator from doing any of the following:

- (1) Using covered information to improve educational products if that information is not associated with an identified student within the

- operator's site, service, or application or other sites, services, or applications owned by the operator;
- (2) Using information that is not associated with an identified student to demonstrate the effectiveness of the operator's products or services, including the marketing of the products or services;
  - (3) Sharing information that is not associated with an identified student for the development and improvement of educational sites, services, or applications; or
  - (4) Recommending to a student any of the following:
    - (A) Additional content relating to an educational, other learning, or employment opportunity purpose within an online site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party;
    - (B) Additional services relating to an educational, other learning, or employment opportunity purpose within an online site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party; or
    - (C) Responding to a student's request for information or for feedback without the information or response being determined in whole or in part by payment or other consideration from a third party.
  - (e) This section shall not:
    - (1) Limit the authority of a law enforcement agency to obtain any content or information from an operator as authorized by law or under a court order;
    - (2) Limit the ability of an operator to use student data, including covered information, for adaptive learning or customized student learning purposes;
    - (3) Apply to general audience websites, general audience online services, general audience online applications, or general audience mobile applications, even if login credentials created for an operator's site, service, or application may be used to access those general audience sites, services, or applications;
    - (4) Limit service providers from providing internet connectivity to schools or students and their families;
    - (5) Prohibit an operator of a website, online service, online application, or mobile application from marketing educational products directly to parents or guardians if the marketing did not result from the use of covered information obtained by the operator by providing services covered under this section;
    - (6) Impose a duty upon a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance with this section on those applications or software;
    - (7) Impose a duty upon a provider of an interactive computer service to review or enforce compliance with this section by third-party content providers; or
    - (8) Prohibit students from downloading, exporting, transferring, saving, or maintaining their own student data or documents."



## **ACT 41**

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 2016.)

## **ACT 41**

S.B. NO. 2565

A Bill for an Act Relating to the Hawaii Public Housing Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to repeal the authority of the Hawaii public housing authority to sell rental units.

More specifically, this Act repeals the state housing sales program. Under the program, the authority may sell units in its projects to tenants under certain conditions.

The legislature finds that state public housing units should not be sold, but should remain under authority ownership for rental to low-income tenants, which is a major immediate public need in Hawaii today. The legislature further finds that the repeal of the housing sales program may eliminate any diversion of the authority's attention from its core mission, which is providing affordable rental housing to low-income tenants.

SECTION 2. Chapter 356D, part IX, Hawaii Revised Statutes, is repealed.

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved April 29, 2016.)

## **ACT 42**

S.B. NO. 2553

A Bill for an Act Relating to Non-General Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

### **PART I**

SECTION 1. The purpose of this Act is to repeal and abolish various non-general funds and accounts pursuant to the recommendations made by the auditor in auditor's report no. 15-19.

### **PART II**

SECTION 2. The purpose of this part is to repeal the child care licensing and registration special fund.

The legislature finds that the fund no longer serves the purpose for which it was created.

SECTION 3. Section 346-159, Hawaii Revised Statutes, is repealed.

SECTION 4. On July 1, 2016, all unencumbered balances remaining in the child care licensing and registration special fund repealed by section 3 of this Act shall lapse to the credit of the general fund.

### PART III

SECTION 5. The purpose of this part is to repeal the housing first special fund.

The legislature finds that the fund does not meet the self-sustaining criterion because it relies on general fund appropriations. Thus, the fund should be repealed.

SECTION 6. Section 346-378, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department of human services, in consultation with the United States Department of Housing and Urban Development, as necessary, shall implement housing first programs and services, as the department deems appropriate for clientele who would most likely benefit from and succeed with the implementation of housing first programs and services, and subject to the availability of existing funds ~~[or housing first special fund moneys]~~.”

SECTION 7. Section 346-377, Hawaii Revised Statutes, is repealed.

SECTION 8. On July 1, 2016, all unencumbered balances remaining in the housing first special fund repealed by section 7 of this Act shall lapse to the credit of the general fund.

### PART IV

SECTION 9. The purpose of this part is to repeal the housing project bond special funds.

The legislature finds that the funds do not serve the purposes for which they were created.

SECTION 10. Section 356D-23, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The trustee shall also be authorized by the authority ~~[to hold and administer any housing project bond special funds established pursuant to section 356D-28, and]~~ to receive and receipt for, hold, and administer the revenues derived by the authority from any public housing project or projects for which the bonds are issued or the projects pledged to the payment of the bonds, and to apply the revenues to the payment of the cost of administering, operating, and maintaining the public housing project or projects, to pay the principal of and the interest on the bonds, to the establishment of reserves, and to other purposes as may be authorized in the proceedings providing for the issuance of the bonds.”

SECTION 11. Section 356D-28, Hawaii Revised Statutes, is amended to read as follows:

**~~“[§356D-28] Public housing revolving fund; housing project bond special funds]~~** (a) There is established the public housing revolving fund to be administered by the authority. Notwithstanding section 36-21, the proceeds in the

fund shall be used for long-term and other special financings of the authority and for necessary expenses in administering this chapter.

(b) All moneys received and collected by the authority, not otherwise pledged, obligated, or required by law to be placed in any other special fund, shall be deposited into the public housing revolving fund.

~~[(c) A separate special fund shall be established for each public housing project or projects financed from the proceeds of bonds secured under the trust indenture. Each fund shall be designated "housing project bond special fund" and shall bear any additional designation as the authority deems appropriate to properly identify the fund.~~

~~(d) Notwithstanding any other law to the contrary, all revenues, income, and receipts derived from a public housing project or projects financed from the proceeds of bonds or pledged to the payment of principal of and interest and premium on bonds, shall be paid into the housing project bond special fund established for the public housing project or projects and applied as provided in the proceedings authorizing the issuance of bonds.]~~

SECTION 12. On July 1, 2016, all unencumbered balances remaining in all housing project bond special funds repealed by section 11 of this Act shall lapse to the credit of the general fund.

#### PART V

SECTION 13. The temporary deposits - payroll overpayment housing and community development corporation of Hawaii trust fund, administratively created in 2006, is reclassified as a trust account.

#### PART VI

SECTION 14. The following funds and accounts are abolished:

- (1) The blueprint for change program special fund administratively established in 2010;
- (2) The costs related to homeless assistance special fund administratively established in 2003;
- (3) The Hale Mahaolu special fund administratively created in 2010;
- (4) The Hawai'i immigrant health initiative program special fund administratively created in 2010;
- (5) The outreach services special fund administratively created in 2010;
- (6) The outreach services to located uninsured children special fund administratively created in 2010;
- (7) The outstationed eligibility worker services special fund administratively created in 2010;
- (8) The shelter plus care program special fund administratively created in 2010;
- (9) The support domestic violence shelters statewide special fund administratively established in 2010; and
- (10) The financial assistance for housing special fund administratively established in 2001;

and any remaining unencumbered balances shall be transferred to the emergency and budget reserve fund established pursuant to section 328L-3, Hawaii Revised Statutes.

PART VII

SECTION 15. The following funds and accounts are abolished:

- (1) The blind shop revolving and handicraft fund established by section 347-12, Hawaii Revised Statutes, which has been repealed by Act 147, Session Laws of Hawaii 2015;
  - (2) The department of human services homeless trust fund created in 2006;
  - (3) The Geist foundation trust account created in 1997;
  - (4) Kahikolu 'Ohana O Wai'anae project trust fund created in 2007; and
  - (5) The recruitment of foster parents trust account created in 1987;
- and any remaining unencumbered balances shall be transferred to the general fund.

PART VIII

SECTION 16. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.<sup>2</sup>

SECTION 17. This Act shall take effect on July 1, 2016.

(Approved April 29, 2016.)

Notes

1. Edited pursuant to HRS §23G-16.5.
2. No underscored material.

ACT 43

S.B. NO. 2552

A Bill for an Act Relating to Non-General Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

PART I

SECTION 1. The purpose of this Act is to:

- (1) Repeal and abolish various non-general funds and accounts, pursuant to the recommendations made by the auditor in auditor's report no. 15-17, and transfers unencumbered balances to the general fund, emergency and budget reserve fund, or county of Hawaii; and
- (2) Require the department of health to examine the distribution of revenues derived from fees for birth, marriage, divorce, and death certificates.

PART II

SECTION 2. The purpose of this part is to repeal the early intervention trust fund.

The legislature finds that the fund does not serve the purpose for which it was created and does not meet the criteria for a trust fund.

SECTION 3. Section 321-357, Hawaii Revised Statutes, is amended as follows:

1. By amending its title and subsection (a) to read:

**“~~[[§321-357]]~~ Early intervention ~~[funds.]~~ special fund; purpose and use.**

(a) The purpose of the early intervention special fund ~~[and early intervention trust fund]~~ is to expand and enhance early intervention services for infants and toddlers with special needs by providing a cooperative funding mechanism between the public and private sectors to work together to make and secure appropriations and donations to the ~~[funds.]~~ fund.”

2. By amending subsection (d) to read:

“(d) The Hawaii early intervention coordinating council shall make recommendations to the department for the expenditure of moneys from the ~~[funds.]~~ early intervention special fund.”

SECTION 4. Section 321-356, Hawaii Revised Statutes, is repealed.

SECTION 5. On July 1, 2016, all unencumbered balances remaining in the early intervention trust fund repealed by section 4 of this Act shall lapse to the credit of the general fund.

### PART III

SECTION 6. The following funds and accounts are abolished:

- (1) The early childhood obesity special fund administratively established in fiscal year 2011-2012 and administered by the department of health;
- (2) The grant for Catholic Charities-Lanakila senior center special fund administratively established and without any financial activity since 2007;
- (3) The grant for emergency room subsidy at Waianae coast clinic special fund administratively established and without any financial activity since 2007;
- (4) The grant for Hawai'i primary care association dental special fund administratively established and without any financial activity since 2007;
- (5) The hospital-based poison center special fund administratively established and without any financial activity since 2006;
- (6) The interagency federal revenue maximization revolving fund established pursuant to section 29-24, Hawaii Revised Statutes, which was repealed by Act 124, Session Laws of Hawaii 2011;
- (7) The program for all inclusive care for elderly special fund administratively established and without any financial activity since 2006;
- (8) The resources to nonprofit, community-based health care special fund administratively established and without any financial activity since 2006;
- (9) The respite services special fund administratively established in 2009; and
- (10) The subsidy for St. Francis medical center-bone marrow special fund administratively established and without any financial activity since 2007;

and any remaining unencumbered balances shall be transferred to the general fund.

#### PART IV

SECTION 7. The following funds and accounts are abolished:

- (1) The funding for grant pursuant to chapter 42F, Hawaii Revised Statutes, special fund administratively established in 2010 for moneys appropriated from the emergency and budget reserve fund through Act 191, Session Laws of Hawaii 2010, and Act 25, Session Laws of Hawaii 2011, which extended the lapse date to the end of fiscal year 2011-2012;
- (2) The healthy aging partnerships program special fund administratively established in 2010 for moneys from the emergency and budget reserve fund authorized through Act 191, Session Laws of Hawaii 2010, for fiscal year 2010-2011 and Act 25, Session Laws of Hawaii 2011, which extended the lapse date from June 30, 2011, to June 30, 2012; and
- (3) The partnership in community living program special fund administratively established in 2010 for moneys appropriated from the emergency and budget reserve fund through Act 191, Session Laws of Hawaii 2010, and Act 25, Session Laws of Hawaii 2011, which extended the lapse date to the end of fiscal year 2011-2012;

and any remaining unencumbered balances shall be transferred to the emergency and budget reserve fund established pursuant to section 328L-3, Hawaii Revised Statutes.

#### PART V

SECTION 8. The Hilo shippers' wharf committee charitable trust fund established in 1954 is abolished and any remaining unencumbered balance shall be transferred to the county of Hawaii pursuant to third circuit vesting order no. 03-1-0010.

#### PART VI

SECTION 9. The purpose of this part is to require the department of health to examine the distribution of revenues derived from fees for birth, marriage, divorce, and death certificates.

SECTION 10. (a) The department of health, with the cooperation of the department of taxation, department of budget and finance, and other relevant executive departments, shall conduct a study on the distribution of revenues derived from fees for birth, marriage, divorce, or death certificates.

(b) The study shall include the following:

- (1) Estimated total revenues derived from the fees through fiscal year 2024-2025;
- (2) Estimated distribution of fee revenues among the non-general funds specified in section 338-14.5, Hawaii Revised Statutes, through fiscal year 2024-2025;
- (3) Estimated budgetary needs of the agencies and programs supported by the non-general funds listed in section 338-14.5, Hawaii Revised Statutes, through fiscal year 2024-2025;
- (4) Differences between the estimated budgetary needs of the agencies and programs under paragraph (3) and their estimated share of fee revenues; and
- (5) A recommendation on whether to:

## ACT 44

- (A) Continue the distribution of fee revenues to the non-general funds, with or without modification; or
- (B) Redistribute all or most of the fee revenues to the general fund and change the means of financing of affected agencies and programs to general funds.

SECTION 11. The department of health shall submit the study, with its findings and recommendations, to the legislature and governor no later than November 1, 2016.

## PART VII

SECTION 12. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 13. This Act shall take effect on July 1, 2016.

(Approved April 29, 2016.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 44

S.B. NO. 2383

A Bill for an Act Relating to the Hawaii Health Connector.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the federal Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) requires states to establish health insurance exchanges to connect buyers and sellers of health and dental insurance and facilitate the purchase and sale of federally qualified health insurance plans and qualified dental plans. Hawaii's health insurance exchange, known as the Hawaii health connector (Connector), was established in 2011 and charged with implementing applicable parts of the Affordable Care Act.

The legislature further finds that:

- (1) Due to Hawaii's small population, the highly successful Hawaii Prepaid Health Care Act of 1974 (Prepaid Health Care Act), and expanded medicaid coverage that resulted in lower numbers of uninsured residents in the State; and
- (2) Despite substantial federal investment in technology and assistance, the efforts of the board of directors and the staff of the Connector, work contributed by public sector employees, and the support of the legislature,

the Connector was unable to meet the financial sustainability requirements imposed by the federal government.

In June 2015, the federal Department of Health and Human Services determined that Hawaii was not in compliance with certain provisions of the Affordable Care Act. The governor, state cabinet officials, and Connector leadership agreed to accelerate the transition of the Connector's authority to the State in November 2015. The legislature notes that this transition was in the best interests of Hawaii residents, as the State had already begun the transition into

the federal marketplace for the enrollment period slated to last through January 1, 2016. The Connector officially ceased operations in December 2015.

The legislature recognizes that some of the challenges faced by the Connector can be attributed to the overwhelming success of the State's Prepaid Health Care Act, which has defined employer-sponsored health insurance in Hawaii and fundamentally shaped Hawaii's health insurance marketplace for over forty years. The Prepaid Health Care Act was the first law of its kind in the nation and requires nearly all employers to provide a uniformly high level of coverage for their employees. Under the Prepaid Health Care Act, employees who work at least twenty hours a week must be offered employer-sponsored health insurance and cannot be required to pay more than 1.5 per cent of their wages for employee-only coverage. Furthermore, employer-based coverage under the Prepaid Health Care Act is robust and provides significantly better benefits than those required under the Affordable Care Act.

The legislature additionally finds that the Prepaid Health Care Act's long history of mandated health care coverage has resulted in a rate of uninsured individuals that is among the lowest in the nation. The uninsured rate in Hawaii has historically fallen between five and seven per cent, with a recent analysis putting the current percentage of uninsured residents at 5.3 per cent. However, the tremendous success of the Prepaid Health Care Act also created challenges for the Connector. Given Hawaii's small population, small insurance marketplace, and historically low uninsured rate, implementing a state-run exchange that could maintain financial sustainability was difficult. Overall, the State lacked the high population and high percentage of uninsured individuals needed to ensure the long-term sustainability of the Connector.

The legislature notes that although the state-based exchange model did not end up working in Hawaii's unique marketplace, the Connector was successful in reaching many previously uninsured individuals. Furthermore, Hawaii residents will still have the opportunity to access affordable health care coverage through the federally supported, state-based exchange, similar to those in Oregon, Nevada, and New Mexico. The legislature also notes that the State has been working with the federal government to provide a new framework for marketplace enrollment that will comply with federal requirements. This successor program to the Connector will be established in a separate measure currently moving through the legislative process.

Finally, the legislature acknowledges and appreciates the work of the board of directors and the staff of the Connector and notes that neither the board nor the Connector staff are responsible for the ultimate repeal of the Connector.

Accordingly, due to the Connector ceasing operations and the transition to a federally supported, state-based exchange, the purpose of this Act is to:

- (1) Repeal the Connector and update an associated reference to the Connector within the Hawaii Revised Statutes;
- (2) Specify that any debts and liabilities pertaining to the Connector that were incurred prior to its repeal shall not constitute a debt or liability of the State; and
- (3) Specify that the provisions in this Act shall not diminish or limit the consumer protections contained in or alter the provisions of the Prepaid Health Care Act.

SECTION 2. Section 432F-2, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) To enable the commissioner to determine the network adequacy for qualified health plans to be listed [~~with the Hawaii health connector under see-~~



## ACT 45

~~tion 435H-11,] on the federal Patient Protection and Affordable Care Act marketplace,~~ the commissioner may request that a managed care plan demonstrate the adequacy of its provider network at the time that it files its health plan benefit document with the commissioner.”

SECTION 3. Chapter 435H, Hawaii Revised Statutes, is repealed.

SECTION 4. Notwithstanding the repeal in section 3 of this Act of chapter 435H, Hawaii Revised Statutes, enacted as Act 205, Session Laws of Hawaii 2011, and amended by Act 233, Session Laws of Hawaii 2014:

- (1) The debts and liabilities incurred by the Hawaii health connector remain the debts and liabilities of the Hawaii health connector and do not constitute the debts and liabilities of the State; nor is the State responsible for the financial operations or solvency of the Hawaii health connector; and
- (2) Nothing in this Act shall in any manner diminish or limit the consumer protections contained in or alter the provisions of chapter 393, Hawaii Revised Statutes.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 29, 2016.)

## ACT 45

S.B. NO. 2163

A Bill for an Act Relating to Service of Process.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 342D-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If the director determines that any person has violated or is violating this chapter, any rule adopted pursuant to this chapter, or any permit or variance issued pursuant to this chapter, the director:

- (1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and may contain an order specifying a reasonable time during which that person shall be required to take any measures that may be necessary to correct the violation and to give periodic progress reports; provided that if all attempts of service of process upon the alleged violator or violators are unsuccessful by personal delivery and by certified, registered, or express mail, notice may be given via a posting on a searchable government website and a sign conspicuously posted on the property, if appropriate;
- (2) May require that the alleged violator or violators appear before the director for a hearing at a time and place specified in the notice and answer the charges complained of; and
- (3) May impose penalties as provided in section 342D-31 by sending written notice, either by certified mail or by personal service, to the alleged violator or violators describing the violation.”

SECTION 2. Section 342H-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If the director determines that any person has violated or is violating any provision of this chapter, any rule adopted pursuant to this chapter, or any term or condition of a permit issued pursuant to this chapter, the director may do any one or more of the following:

- (1) Issue an order assessing an administrative penalty for any past or current violation; provided that if all attempts of service of process upon the person who has been or is in violation are unsuccessful by personal delivery and by certified, registered, or express mail, notice may be given via a posting on a searchable government website and a sign conspicuously posted on the property, if appropriate;
- (2) Require compliance immediately or within a specified time; and
- (3) Commence a civil action in the circuit environmental court in the circuit in which the violation occurred or the person resides or maintains the person’s principal place of business for appropriate relief, including a temporary, preliminary, or permanent injunction, the imposition and collection of civil penalties, or other relief.”

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2017.

(Approved April 29, 2016.)

## ACT 46

S.B. NO. 2315

A Bill for an Act Relating to Jury Duty.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature recognizes that breastfeeding benefits both mothers and children. The American Academy of Pediatrics supports evidence that breastfeeding protects against a variety of diseases and conditions in infants, including bacteremia, diarrhea, respiratory and urinary tract infections, type 1 and type 2 diabetes, lymphoma, leukemia, and childhood obesity. There are also maternal health benefits to breastfeeding, such as decreased postpartum bleeding and more rapid uterine involution, decreased menstrual blood loss, and decreased risk of breast and ovarian cancers. The societal benefits of breastfeeding include lower health insurance costs and higher worker productivity.

The American Academy of Pediatrics recommends that a child breastfeed exclusively for about six months, with continuation of breastfeeding for one year or longer as mutually desired by mother and infant; the World Health Organization and the Institute of Medicine concur with this recommendation.

According to the federal Centers for Disease Control and Prevention’s 2014 Breastfeeding Report Card, seventy-nine per cent of newborn infants in the United States start out breastfeeding. However, breastfeeding rates fell to forty-nine per cent at six months and twenty-seven per cent at twelve months. In Hawaii, only 26.4 per cent of babies are exclusively breastfeeding at six months, as recommended by the American Academy of Pediatrics.

The legislature finds that jury duty may create a hardship for mothers who breastfeed their children because the mother-child separation creates a serious challenge to continued breastfeeding. Furthermore, some women who are called to serve jury duty may not have ready access to the proper pump and supplies that are needed to express breast milk. An exemption from jury duty

for a breastfeeding mother can have a positive impact on the preservation of the breastfeeding relationship between a mother and her child and would also enable a woman to serve jury duty at a later time. The legislature further finds that a woman should not have to worry about her ability to breastfeed while serving on a jury.

The legislature additionally finds that, according to the National Conference of State Legislatures, seventeen states exempt breastfeeding mothers from jury duty or allow jury service to be postponed.

The purpose of this Act is to meet the health needs of Hawaii's mothers and babies by exempting from jury duty mothers who breastfeed or express breast milk; provided that this exemption shall continue for a period of two years from the birth of the child.

SECTION 2. Section 612-6, Hawaii Revised Statutes, is amended to read as follows:

**"§612-6 Exempt when.** A person may claim exemption from service as a juror if the person is:

- (1) An elected official while the legislature is in session, or a judge of the United States, State, or county;
- (2) An actively practicing physician or dentist;
- (3) A member of the armed forces or militia when on active service and deployed out-of-state;
- (4) An active member of a police or fire department;
- (5) A person who has served as a juror, either in a court of this State or the United States District Court for the District of Hawaii, within one year preceding the time of filling out the juror qualification form;
- (6) An active member of an emergency medical services agency;
- (7) A person living more than seventy miles from the court for which jury service is required; ~~[or]~~
- (8) A person eighty years of age or older~~[-]; or~~
- (9) A woman who is breastfeeding a child or expressing breast milk for a period of two years from the birth of the child.

For purposes of this section, "emergency medical services agency" means any government agency, private agency, or company that provides ambulance services, emergency medical services, or disaster medical services."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on March 1, 2017.

(Approved May 3, 2016.)

**ACT 47**

S.B. NO. 3126

A Bill for an Act Relating to Public Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. There is a need to install air conditioning and other heat abatement equipment in public school classrooms to preserve and promote the health and safety of students and teachers, and to foster a better and more comfortable and productive learning environment. With the current El Nino conditions, high temperatures in classrooms during the summer months will be a continuing problem that must be addressed. In order to keep the costs of operating air conditioning and heat abatement equipment in the classrooms affordable and to reduce dependence on imported fossil fuels, energy efficient lighting and other energy efficiency measures will also be necessary in conjunction with the air conditioning and other heat abatement measures.

The legislature finds that the funding is immediately available to provide air conditioning and other heat abatement measures for the public schools. On January 7, 2016, the department of budget and finance reported to the council on revenues that the State will receive approximately \$170,000,000 of increased reimbursements from the federal government, primarily for medicaid. The \$170,000,000 increased reimbursement was not anticipated by the administration when it prepared the executive supplemental budget request for fiscal year 2016-2017. The reimbursement is the realization of the general fund.

The legislature further finds that the use of general funds for providing air conditioning and heat abatement for public schools is preferable to using green infrastructure loan funds. First, the department of education will have more flexibility in using general funds for air conditioning and heat abatement measures. The types of projects that the department of education would have been able to fund with green infrastructure loan funds were unclear and apparently limited to energy efficiency and conservation projects. Second, using general funds instead of green infrastructure loan funds precludes the need for annual debt service payments. Taxpayers who already are paying a monthly green infrastructure fee on their electricity bills will benefit by not having to pay back the green infrastructure fund for principal as well as interest. Third, the green infrastructure loan funds will remain available for projects that truly promote renewable energy and energy efficiency and conservation. Using the green infrastructure loan funds for utility-scale projects, as recommended by the consumer advocate before the public utilities commission, may be a possibility in the future.

The purpose of this Act is to appropriate general funds for the installation of and equipment for air conditioning, heat abatement, energy efficient lighting, and other energy efficiency measures for schools of the department of education.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000,000 or so much thereof as may be necessary for fiscal year 2015-2016 for the purpose of funding capital improvement program equipment and installation costs for air conditioning, other heat abatement measures, energy efficient lighting, and other energy efficiency measures at public schools.

The sum appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 4. The appropriation made under section 3 shall not lapse at the end of the fiscal year for which the appropriations are made; provided that all moneys from the appropriation unencumbered as of June 30, 2018, shall lapse as of that date.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 5, 2016.)

A Bill for an Act Relating to Judicial Proceedings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 174C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§174C- Contested cases.** (a) Chapter 91 shall apply to every contested case arising under this chapter except where chapter 91 conflicts with this chapter, in which case this chapter shall apply. Any other law to the contrary notwithstanding, including chapter 91, any contested case under this chapter shall be appealed from a final decision and order or a preliminary ruling that is of the nature defined by section 91-14(a) upon the record directly to the supreme court for final decision. Only a person aggrieved in a contested case proceeding provided for in this chapter may appeal from the final decision and order or preliminary ruling. For the purposes of this section, the term "person aggrieved" includes an agency that is a party to a contested case proceeding before that agency or another agency.

(b) The court shall give priority to contested case appeals of significant statewide importance over all other civil or administrative appeals or matters and shall decide these appeals as expeditiously as possible."

SECTION 2. Chapter 183C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§183C- Contested cases.** (a) Chapter 91 shall apply to every contested case arising under this chapter except where chapter 91 conflicts with this chapter, in which case this chapter shall apply. Any other law to the contrary notwithstanding, including chapter 91, any contested case under this chapter shall be appealed from a final decision and order or a preliminary ruling that is of the nature defined by section 91-14(a) upon the record directly to the supreme court for final decision, except for those appeals heard pursuant to this chapter arising in whole or in part from part III of chapter 205A or arising in whole or in part from chapter 115. Only a person aggrieved in a contested case proceeding provided for in this chapter may appeal from the final decision and order or preliminary ruling. For the purposes of this section, the term "person aggrieved" includes an agency that is a party to a contested case proceeding before that agency or another agency.

(b) The court shall give priority to contested case appeals of significant statewide importance over all other civil or administrative appeals or matters and shall decide these appeals as expeditiously as possible."

SECTION 3. Chapter 205, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§205- Contested cases.** (a) Chapter 91 shall apply to every contested case arising under this chapter except where chapter 91 conflicts with this chapter, in which case this chapter shall apply. Any other law to the contrary notwithstanding, including chapter 91, any contested case under this chapter shall be appealed from a final decision and order or a preliminary ruling that is of the nature defined by section 91-14(a) upon the record directly to the supreme court for final decision. Only a person aggrieved in a contested case proceeding

provided for in this chapter may appeal from the final decision and order or preliminary ruling. For the purposes of this section, the term "person aggrieved" includes an agency that is a party to a contested case proceeding before that agency or another agency.

(b) The court shall give priority to contested case appeals of significant statewide importance over all other civil or administrative appeals or matters and shall decide these appeals as expeditiously as possible."

SECTION 4. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§269- Contested cases.** (a) Chapter 91 shall apply to every contested case arising under this chapter except where chapter 91 conflicts with this chapter, in which case this chapter shall apply. Any other law to the contrary notwithstanding, including chapter 91, any contested case under this chapter shall be appealed from a final decision and order or a preliminary ruling that is of the nature defined by section 91-14(a) upon the record directly to the supreme court for final decision. Only a person aggrieved in a contested case proceeding provided for in this chapter may appeal from the final decision and order or preliminary ruling. For the purposes of this section, the term "person aggrieved" includes an agency that is a party to a contested case proceeding before that agency or another agency.

(b) The court shall give priority to contested case appeals of significant statewide importance over all other civil or administrative appeals or matters and shall decide these appeals as expeditiously as possible."

SECTION 5. Section 91-14, Hawaii Revised Statutes, is amended to read as follows:

**"§91-14 Judicial review of contested cases.** (a) Any person aggrieved by a final decision and order in a contested case or by a preliminary ruling of the nature that deferral of review pending entry of a subsequent final decision would deprive appellant of adequate relief is entitled to judicial review thereof under this chapter; but nothing in this section shall be deemed to prevent resort to other means of review, redress, relief, or trial de novo, including the right of trial by jury, provided by law. Notwithstanding any other provision of this chapter to the contrary, for the purposes of this section, the term "person aggrieved" shall include an agency that is a party to a contested case proceeding before that agency or another agency.

(b) Except as otherwise provided herein, proceedings for review shall be instituted in the circuit court or, if applicable, the environmental court, within thirty days after the preliminary ruling or within thirty days after service of the certified copy of the final decision and order of the agency pursuant to rule of court, except where a statute provides for a direct appeal to the supreme court or the intermediate appellate court, subject to chapter 602. In such cases, the appeal shall be treated in the same manner as an appeal from the circuit court to the supreme court or the intermediate appellate court, including payment of the fee prescribed by section 607-5 for filing the notice of appeal (except in cases appealed under sections 11-51 and 40-91). The court in its discretion may permit other interested persons to intervene.

(c) The proceedings for review shall not stay enforcement of the agency decisions or the confirmation of any fine as a judgment pursuant to section 92-17(g); but the reviewing court may order a stay if the following criteria have been met:

- (1) There is likelihood that the subject person will prevail on the merits of an appeal from the administrative proceeding to the court;
  - (2) Irreparable damage to the subject person will result if a stay is not ordered;
  - (3) No irreparable damage to the public will result from the stay order; and
  - (4) Public interest will be served by the stay order.
- (d) Within twenty days after the determination of the contents of the record on appeal in the manner provided by the rules of court, or within such further time as the court may allow, the agency shall transmit to the reviewing court the record of the proceeding under review. The court may require or permit subsequent corrections or additions to the record when deemed desirable.
- (e) If, before the date set for hearing, application is made to the court for leave to present additional evidence material to the issue in the case, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon such conditions as the court deems proper. The agency may modify its findings, decision, and order by reason of the additional evidence and shall file with the reviewing court, to become a part of the record, the additional evidence, together with any modifications or new findings or decision.
- (f) The review shall be conducted by the appropriate court without a jury and shall be confined to the record, except that in the cases where a trial de novo, including trial by jury, is provided by law and also in cases of alleged irregularities in procedure before the agency not shown in the record, testimony thereon may be taken in court. The court ~~[shall]~~, upon request by any party, ~~[hear oral arguments and]~~ shall receive written briefs~~[-]~~ and, at the court's discretion, may hear oral arguments.
- (g) Upon review of the record, the court may affirm the decision of the agency or remand the case with instructions for further proceedings; or it may reverse or modify the decision and order if the substantial rights of the petitioners may have been prejudiced because the administrative findings, conclusions, decisions, or orders are:
- (1) In violation of constitutional or statutory provisions; ~~[or]~~
  - (2) In excess of the statutory authority or jurisdiction of the agency; ~~[or]~~
  - (3) Made upon unlawful procedure; ~~[or]~~
  - (4) Affected by other error of law; ~~[or]~~
  - (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
  - (6) Arbitrary, or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.
- (h) Upon a trial de novo, including a trial by jury as provided by law, the court shall transmit to the agency its decision and order with instructions to comply with the order.
- (i) Where a court remands a matter to an agency for the purpose of conducting a contested case hearing, the court may reserve jurisdiction and appoint a master or monitor to ensure compliance with its orders.
- (j) The court shall give priority to contested case appeals of significant statewide importance over all other civil or administrative appeals or matters and shall decide these appeals as expeditiously as possible."

SECTION 6. Section 174C-12, Hawaii Revised Statutes, is amended to read as follows:

**“[§174C-12] Judicial review of rules and orders of the commission concerning the water code.** [Judicial] Except as otherwise provided in this chapter, judicial review of rules and orders of the commission under this chapter shall be governed by chapter 91. Trial de novo is not allowed on review of commission actions under this chapter.”

SECTION 7. Section 183C-8, Hawaii Revised Statutes, is amended to read as follows:

**“[§183C-8] Zoning order; appeal to circuit environmental court.** [Any] Except as otherwise provided in this chapter, any final order of the department based upon this [chapter] may be appealed to the circuit environmental court of the circuit in which the land in question is found. The appeal shall be in accord with chapter 91 and the Hawaii rules of civil procedure.”

SECTION 8. Section 206E-5.6, Hawaii Revised Statutes, is amended to read as follows:

**“§206E-5.6 Public hearing for decision-making; separate hearings required; contested case hearing; judicial review.** (a) When rendering a decision regarding:

- (1) An amendment to any of the authority’s community development rules established pursuant to chapter 91 and section 206E-7; or
- (2) The acceptance of a developer’s proposal to develop lands under the authority’s control,

the authority shall render its decision at a public hearing separate from the hearing that the proposal under paragraph (1) or (2) was presented.

(b) The authority shall issue a public notice in accordance with section 1-28.5 and post the notice on its website; provided that the decision-making hearing shall not occur earlier than five business days after the notice is posted. Public notice issued pursuant to this subsection for public hearings on the acceptance of a developer’s proposal to develop lands under the authority’s control shall state that any written motion to intervene as a formal party to the proceeding shall be received within twenty days after the publication date of the public notice.

(c) Prior to rendering a decision, the authority shall provide the general public with the opportunity to testify at its decision-making hearing; provided that members of the public who are not intervenors in the proceeding shall not be considered formal parties to the proceeding.

(d) The authority shall notify the president of the senate and speaker of the house:

- (1) Of any public hearing upon posting of the hearing notice; and
- (2) With a report detailing the public’s reaction at the public hearing, within one week after the hearing.

(e) When considering any developer’s proposal to develop lands under the authority’s control that includes any request for a variance, exemption, or modification of a community development plan or of the authority’s community development rules, the authority shall consider the request for variance, exemption, or modification at a public hearing, noticed in accordance with section 1-28.5, separate from and subsequent to the hearing at which the developer’s proposal was presented; provided that the authority may consider all requests applicable to a single proposal at the same public hearing. The authority’s decision on requests subject to this subsection shall be rendered at the decision-making hearing on the developer’s proposal.



(f) No final decision of the authority on a developer's proposal shall be issued until after all proceedings required by this section are finally concluded.

(g) Proceedings regarding the acceptance of a developer's proposal to develop lands under the authority's control shall be considered a contested case hearing.

(h) Any party aggrieved by a final decision of the authority regarding the acceptance of a developer's proposal to develop lands under the authority's control may seek judicial review of the decision within thirty days[, pursuant to section 91-14]. Chapter 91 shall apply to the judicial review except where chapter 91 conflicts with this chapter, in which case this chapter shall apply. Any other law to the contrary notwithstanding, including chapter 91, any contested case under this chapter shall be appealed from a final decision and order or a preliminary ruling that is of the nature defined by section 91-14(a) upon the record directly to the supreme court for final decision. Only a person aggrieved in a contested case proceeding provided for in this chapter may appeal from the final decision and order or preliminary ruling. For the purposes of this section, the term "person aggrieved" includes an agency that is a party to a contested case proceeding before that agency or another agency.

(i) The court shall give priority to contested case appeals of significant statewide importance over all other civil or administrative appeals or matters and shall decide these appeals as expeditiously as possible.

~~[(i)]~~ (i) The authority shall not approve any developer's proposal to develop lands under the authority's control unless the authority finds that the proposed development project is reasonable and is consistent with the development rules and policies of the relevant development district. In making its finding pursuant to this subsection, the authority shall consider:

- (1) The extent to which the proposed project:
  - (A) Advances the goals, policies, and objectives of the applicable district plan;
  - (B) Protects, preserves, or enhances desirable neighborhood characteristics through compliance with the standards and guidelines of the applicable district rules;
  - (C) Avoids a substantially adverse effect on surrounding land uses through compatibility with the existing and planned land use character of the surrounding area; and
  - (D) Provides housing opportunities for all income groups, particularly low, moderate, and other qualified income groups;
- (2) The impact of the proposed project on the following areas of urban design, as applicable:
  - (A) Pedestrian oriented development, including complete streets design;
  - (B) Transit oriented development, including rail, bus, and other modes of rapid transit; and
  - (C) Community amenities such as gathering places, community centers, culture and arts facilities, and the full array of public facilities normally provided by the public sector;
- (3) The impact of the proposed project on the following areas of state concern:
  - (A) Preservation of important natural systems or habitats;
  - (B) Maintenance of valued cultural, historical, or natural resources;
  - (C) Maintenance of other resources relevant to the State's economy;
  - (D) Commitment of state funds and resources;

- (E) Employment opportunities and economic development; and
- (F) Maintenance and improvement of the quality of educational programs and services provided by schools;
- (4) The representations and commitments made by the developer in the permit application process."

SECTION 9. Section 269-15.5, Hawaii Revised Statutes, is amended to read as follows:

**"§269-15.5 Appeals.** ~~[An]~~ Except as otherwise provided in this chapter, ~~an~~ appeal from an order of the public utilities commission under this chapter shall lie, subject to chapter 602, in the manner provided for civil appeals from the circuit courts. Only a person aggrieved in a contested case proceeding provided for in this chapter may appeal from the order, if the order is final, or if preliminary, is of the nature defined by section 91-14(a). The commission may elect to be a party to all matters from which an order of the commission is appealed, and the commission may file appropriate responsive briefs or pleadings in the appeal; provided that where there was no adverse party in the case below, or in cases where there is no adverse party to the appeal, the commission shall be a party to all matters in which an order of the commission is appealed and shall file the appropriate responsive briefs or pleadings in defending all such orders. The appearance of the commission as a party in appellate proceedings in no way limits the participation of persons otherwise qualified to be parties on appeal. The appeal shall not of itself stay the operation of the order appealed from, but the appellate court may stay the order after a hearing upon a motion therefor and may impose conditions it deems proper, including but not limited to requiring a bond, requiring that accounts be kept, or requiring that other measures be taken as ordered to secure restitution of the excess charges, if any, made during the pendency of the appeal, in case the order appealed from is sustained, reversed, or modified in whole or in part."

SECTION 10. Section 602-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"(a)** ~~[The]~~ Except as otherwise provided, the supreme court shall have jurisdiction and powers as follows:

- (1) To hear and determine all questions of law, or of mixed law and fact, which are properly brought before it by application for a writ of certiorari to the intermediate appellate court or by transfer as provided in this chapter;
- (2) To answer, in its discretion, any question of law reserved by a circuit court, the land court, or the tax appeal court, or any question or proposition of law certified to it by a federal district or appellate court if the supreme court shall so provide by rule;
- (3) To exercise original jurisdiction in all questions arising under writs directed to courts of inferior jurisdiction and returnable before the supreme court, or if the supreme court consents to receive the case arising under writs of mandamus directed to public officers to compel them to fulfill the duties of their offices; and such other original jurisdiction as may be expressly conferred by law;
- (4) To issue writs of habeas corpus, or orders to show cause as provided by chapter 660, returnable before the supreme court or a circuit court, and any justice may issue writs of habeas corpus or such orders to show cause, returnable as above stated;

- (5) To make or issue any order or writ necessary or appropriate in aid of its jurisdiction, and in such case, any justice may issue a writ or an order to show cause returnable before the supreme court; and
- (6) To make and award such judgments, decrees, orders and mandates, issue such executions and other processes, and do such other acts and take such other steps as may be necessary to carry into full effect the powers which are or shall be given to it by law or for the promotion of justice in matters pending before it."

SECTION 11. The judiciary shall submit a report to the legislature of its findings and recommendations regarding the change in judicial proceedings made by this Act, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2019.

SECTION 12. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 14. This Act shall take effect on August 1, 2016, and shall be repealed on July 1, 2019; provided that sections 91-14, 174C-12, 183C-8, 206E-5.6(h), 269-15.5, and 602-5(a), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act.

(Approved May 10, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 49**

H.B. NO. 2308

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to collective bargaining statewide (BUF 102) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2015-2017 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (11):

	<u>FY 2015-2016</u>	<u>FY 2016-2017</u>
Special Funds	\$ 8,447	\$ 33,786

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART II

SECTION 3. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 4. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2016, and June 30, 2017, of the respective fiscal years, shall lapse as of those dates.

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved May 10, 2016.)

ACT 50

S.B. NO. 2836

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 55, Session Laws of Hawaii 2015, is amended as follows:

1. By amending section 17 to read:

“SECTION 17. There are appropriated or authorized from the sources of funding indicated below to collective bargaining statewide (BUF 102) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2015-2017, all collective bargaining cost items for salary increases and other wage related costs in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (14):

	<u>FY 2015-2016</u>	<u>FY 2016-2017</u>
General Funds	\$1,250,717	[\$2,241,059]
		<u>\$6,585,486</u>
Special Funds	96,935	[184,471]
		<u>561,439</u>
Interdepartmental Transfers	198,321	[356,026]
		<u>1,074,879”</u>

2. By amending section 19 to read:

“SECTION 19. There are appropriated from the source of funding indicated below to collective bargaining statewide (BUF 102) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2015-2017, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining ~~[who belong to the same compensation plans as those officers and employees with collective bargaining unit (14)]~~:

	<u>FY 2015-2016</u>	<u>FY 2016-2017</u>
General Funds	\$35,975	[\$57,892]
		<u>\$174,810”</u>

## ACT 51

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.  
(Approved May 10, 2016.)

## ACT 51

S.B. NO. 2835

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.  
*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to collective bargaining statewide (BUF 102) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2015-2017 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (8):

	<u>FY 2015-2016</u>	<u>FY 2016-2017</u>
General Funds	\$4,127,248	\$13,042,475
Special Funds	\$350,296	\$1,187,196
Federal Funds	\$17,630	\$56,497
Other Federal Funds	\$2,876	\$9,113
Revolving Funds	\$178,842	\$579,511

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

### PART II

SECTION 3. There are appropriated or authorized from the sources of funding indicated below to collective bargaining statewide (BUF 102) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2015-2017, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees who are excluded from collective bargaining and belong to the same compensation plans as those officers and employees with collective bargaining unit (8):

	<u>FY 2015-2016</u>	<u>FY 2016-2017</u>
General Funds	\$259,486	\$813,993
Special Funds	\$15,476	\$51,537

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

### PART III

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,560,282 or so much thereof as may be necessary for fiscal year 2016-2017 to be considered a subsidy to fund collective bargaining

cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (8), relating to non-general and unbudgeted positions.

The sum appropriated shall be expended by the University of Hawaii for the purposes of this part.

#### PART IV

SECTION 6. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 7. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2016, and June 30, 2017, of the respective fiscal years, shall lapse as of those dates.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 10, 2016.)

### ACT 52

H.B. NO. 2217

A Bill for an Act Relating to Amending or Repealing Hawaii Real Property Tax Laws for the Purpose of Deleting Obsolete or Unnecessary Provisions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that article VIII, section 3, of the state constitution provides that the taxation of real property in the State has been transferred to the several counties. Pursuant to the Supreme Court of Hawaii's decision in *State ex rel. Anzai v. City & County of Honolulu*, 99 Hawaii 508, 57 P.3d 433 (2002), the need for numerous provisions in the Hawaii Revised Statutes governing the taxation of real property in the State lapsed decades ago, and those provisions are no longer of any force or effect.

SECTION 2. Section 239-5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Notwithstanding subsection (a), the rate of tax upon the portion of the gross income of:

- (1) A public utility that consists of the receipts from the sale of its products or services to another public utility that resells such products or services shall be one-half of one per cent; or
- (2) A public utility engaged in the business of selling telecommunication services to a person defined in section 237-13(6)(C) who resells such products or services, shall be one-half of one per cent;

provided that the resale of the products, services, or telecommunication services is subject to taxation under this section or subject to taxation at the highest rate under section 237-13(6); and provided further that ~~the public utility's exemption from real property taxes imposed by chapter 246 shall be reduced by the proportion that its public utility gross income described herein bears to its total public utility gross income. Whenever~~ whenever the public utility has other public utility gross income, the gross income from the sale of its products or services to another public utility or a person subject to section 237-13(6)(C) shall be included

## ACT 53

in applying subsection (a) in determining the rate of tax upon the other public utility gross income. The department shall have the authority to implement the tax rate changes in paragraph (2) by prescribing tax forms and instructions that require tax reporting and payment by deduction, allocation, or any other method to determine tax liability with due regard to the tax rate changes.”

SECTION 3. Section 342G-61, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§342G-61]]~~ **Solid waste collection surcharge.** Each county may assess residential real property owners in their respective county an annual solid waste collection surcharge based on the partial costs of solid waste collection. Notice of this surcharge shall be included with the notice of assessment required by ~~[section 246-43.]~~ county ordinance.”

SECTION 4. Section 248-1, Hawaii Revised Statutes, is amended by amending the definition of “property” or “real property” to read as follows:

““Property” or “real property” ~~[has the meaning defined by section 246-1.]~~ means and includes all land and appurtenances thereof and the buildings, structures, fences, and improvements erected on or affixed to the same, and any fixture that is erected on or affixed to such land, buildings, structures, fences, and improvements, including all machinery and other mechanical or other allied equipment and the foundations thereof, whose use thereof is necessary to the utility of such land, buildings, structures, fences, and improvements, or whose removal therefrom cannot be accomplished without substantial damage to such land, buildings, structures, fences, and improvements, excluding, however, any growing crops.”

SECTION 5. Section 205-14, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 248-5, Hawaii Revised Statutes, is repealed.

SECTION 7. Chapter 246, Hawaii Revised Statutes, is repealed.

SECTION 8. Chapter 246A, Hawaii Revised Statutes, is repealed.<sup>1</sup>

SECTION 9. This Act shall take effect on July 1, 2016.

(Approved June 6, 2016.)

### Note

1. No Ramseyer section.

## ACT 53

H.B. NO. 2218

A Bill for an Act Relating to Amending or Repealing Hawaii Income Tax Laws for the Purpose of Deleting Obsolete or Unnecessary Provisions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) For all taxable years beginning after December 31, 2014, as used in this chapter, except as provided in section 235-2.35, “Internal Revenue Code” means subtitle A, chapter 1, of the federal Internal Revenue Code of 1986, as amended as of December 31, 2014, as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income, except those provisions of the Internal Revenue Code and federal public laws which, pursuant to this chapter, do not apply or are otherwise limited in application and except for the provisions of Public Law 109-001, which apply to section 170 of the Internal Revenue Code. The provisions of Public Law 109-001 to accelerate the deduction for charitable cash contributions for the relief of victims of the 2004 Indian Ocean tsunami are applicable for the calendar year that ended December 31, 2004, and the calendar year ending December 31, 2005.

[Sections 235-2, 235-2.1, and 235-2.2] Prior law shall continue to be used to determine:

- (1) The basis of property, if a taxpayer first determined the basis of property in a taxable year to which ~~[these sections apply, and if the determination was made before January 1, 1978;]~~ prior law applies; and
- (2) Gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which ~~[these sections apply where the taxable year begins before January 1, 1978.]~~ prior law applies.”

SECTION 2. Section 235-2, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 235-2.1, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 235-2.2, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2016.

(Approved June 6, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 54

H.B. NO. 2033

A Bill for an Act Relating to the Commission on Water Resource Management.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 174C-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Five members shall be appointed by the governor subject to confirmation by the senate[;] in ~~[a]~~ the manner prescribed in subsection (d). Each member shall have substantial experience in the area of water resource management; provided that at least one member shall have substantial experience or expertise in traditional Hawaiian water resource management techniques and in traditional Hawaiian riparian usage such as those preserved by section 174C-



101. The chairperson of the board of land and natural resources shall be the chairperson of the commission. The director of health or the director's designee shall serve as an ex officio voting member."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 2016.)

## ACT 55

H.B. NO. 2448

A Bill for an Act Relating to Statutory Revision: Amending Various Provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the Purposes of Correcting Errors and References, Clarifying Language, and Deleting Obsolete or Unnecessary Provisions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 134-1, Hawaii Revised Statutes, is amended by amending the definition of "assault pistol" to read as follows:

"Assault pistol" means a semiautomatic pistol ~~[which]~~ that accepts a detachable magazine and ~~[which]~~ has two or more of the following characteristics:

- (1) An ammunition magazine ~~[which]~~ that attaches to the pistol outside of the pistol grip;
- (2) A threaded barrel capable of accepting a barrel extender, flash suppressor, forward hand grip, or silencer;
- (3) A shroud ~~[which]~~ that is attached to or partially or completely encircles the barrel and ~~[which]~~ permits the shooter to hold the firearm with the second hand without being burned;
- (4) A manufactured weight of fifty ounces or more when the pistol is unloaded;
- (5) A centerfire pistol with an overall length of twelve inches or more; or
- (6) It is a semiautomatic version of an automatic firearm;

but does not include a firearm with a barrel sixteen or more inches in length, an antique pistol as defined in this section, or a curio or relic as those terms are used in 18 United States Code ~~§921(16)]~~ section 921(a)(13) or 27 Code of Federal Regulations ~~[478.11.]~~ section 478.11."

SECTION 2. Section 201H-37, Hawaii Revised Statutes, is amended to read as follows:

**"[H]§201H-37[H] Exemption from tax on income and obligations.** Income earned and obligations issued by a nonprofit entity determined to constitute a "public housing agency" pursuant to section ~~[3(6)]~~ 3(b)(6) of the United States Housing Act of 1937, as amended, and which income and obligations are declared by the United States Department of Housing and Urban Development to be exempt from all taxation imposed by the United States pursuant to section 11(b) of the United States Housing Act[.] of 1937, shall be exempt from all taxation now or hereafter imposed by the State."

SECTION 3. Section 329-101, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A controlled substance electronic ~~accountability~~ prescription accountability system shall be established within six months of June 18, 1996."

SECTION 4. Section 348-2, Hawaii Revised Statutes, is amended to read as follows:

**"§348-2 Definitions.** For the purposes of this chapter:

~~[(14)]~~ "Department" means the department of human services.

~~[(15)]~~ "Director" means the director of human services.

~~[(3)]~~ ~~The term "eligible"~~ "Eligible handicapped individual", when used with respect to diagnostic and related services, training, guidance, and placement, means any handicapped individual whose vocational rehabilitation is determined feasible by the department of human services, and when used with respect to other vocational rehabilitation services, means an individual meeting the ~~[above]~~ foregoing requirements who is also found by the department to require financial assistance with respect thereto, after full consideration of the individual's financial resources, or in the instance of minors the financial resources of the parents, and eligibility for any similar benefit by way of pension, compensation, insurance, or of any other available assistance.

~~[(13)]~~ "Establishment of a workshop or rehabilitation facility" means:

~~[(A)]~~ (1) In the case of a workshop, the expansion, remodeling, or alteration of existing buildings, necessary to adapt the buildings to workshop purposes or to increase the employment opportunities in workshops, and the acquisition of initial equipment necessary for new workshops or to increase the employment opportunities in workshops; and

~~[(B)]~~ (2) In the case of a rehabilitation facility, the expansion, remodeling, or alteration of existing buildings, and initial equipment of ~~[such]~~ those buildings, necessary to adapt the buildings to rehabilitation facility purposes (subject, however, to ~~[such]~~ limitations ~~[as]~~ that the director of human services may by ~~[regulations]~~ rules prescribe in order to prevent impairment of the objectives of, or duplication of, other federal laws providing federal assistance to states in the construction of ~~[such]~~ those facilities), and initial staffing thereof.

~~[(4)]~~ ~~The term "handicapped"~~ "Handicapped individual" means an individual who is under a physical or mental disability ~~[which]~~ that is stable or slowly progressive and constitutes a substantial handicap to employment, but ~~[which]~~ that is of such a nature that appropriate vocational rehabilitation services may reasonably be expected to render the individual able to engage in a remunerative occupation.

~~[(8)]~~ ~~The term "health"~~ "Health maintenance" means payments for medical care for acute conditions occurring in the course of vocational rehabilitation ~~[which]~~ that are not expected to last thirty days.

~~[(7)]~~ ~~The term "maintenance"~~ "Maintenance" means payments, not exceeding the cost of subsistence, provided an eligible handicapped individual necessary to derive the benefit of other vocational rehabilitation services being provided to achieve the individual's vocational rehabilitation objective.

~~[(12)]~~ ~~The term "nonprofit"~~ "Nonprofit", when used with respect to a rehabilitation facility or a workshop, means a rehabilitation facility and a workshop, respectively, owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any

private shareholder or individual and the income of which is exempt from taxation under section 501(c) of the Internal Revenue Code.

[(5) ~~The term "physical"~~ "Physical restoration" includes:

- [(A)] (1) Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition ~~[which]~~ that is stable or slowly progressive and constitutes a substantial handicap to employment, but is of such a nature that the correction or modification may reasonably be expected to eliminate or substantially reduce the handicap within a reasonable length of time; and includes psychiatric treatment, dentistry, physical therapy, occupational therapy, speech or hearing therapy, treatment of medical complications, and emergencies ~~[which]~~ that are associated with or arise out of physical restoration services or are inherent in the condition under treatment, and other medical services related to rehabilitation;
- [(B)] (2) Necessary hospitalization (either ~~[in-patient]~~ inpatient or ~~[out-patient]~~ outpatient) and nursing care in connection with surgery or treatment specified in ~~[the preceding subparagraph (A);]~~ paragraph (1); and
- [(C)] (3) Prosthetic devices essential to obtaining or retaining employment.

[(6) ~~The term "prosthetic"~~ "Prosthetic appliance" means any appliance designed to support or take the place of a part of the body, or to increase the acuity of a sensory organ.

[(10) ~~The term "rehabilitation"~~ "Rehabilitation facility" means a facility operated for the primary purpose of assisting in the rehabilitation of handicapped individuals:

- [(A)] (1) ~~[Which]~~ That provides one or more of the following types of services:
  - [(i)] (A) Testing, fitting, or training in the use of prosthetic devices;
  - [(ii)] (B) Prevocational or conditioning therapy;
  - [(iii)] (C) Physical or occupational therapy;
  - [(iv)] (D) Adjustment training; or
  - [(v)] (E) Evaluation or control of special disabilities; or
- [(B)] (2) Through which is provided an integrated program of medical, psychological, social, and vocational evaluation and services under competent professional supervision.

[(2) ~~The term "remunerative"~~ "Remunerative occupation" includes employment as an employee or self-employed, practice of a profession, homemaking, or farm and family work for which payment is in kind rather than cash, sheltered employment and home industry or other homebound work of a remunerative nature.

[(9) ~~The term "vocational"~~ "Vocational rehabilitation" means making an individual able, or increasing the individual's ability to engage in, and placement in, a remunerative occupation through providing the individual needed vocational rehabilitation services.

[(4) ~~The term "vocational"~~ "Vocational rehabilitation services" means:

- [(A)] (1) Diagnostic and related services (including transportation) incidental to the determination of whether an individual is a handicapped individual, and if so, the individual's eligibility for, and the nature and scope of other vocational rehabilitation services to be provided; and
- [(B)] (2) The following services provided to eligible handicapped individuals needing the services:
  - [(i)] (A) Training;
  - [(ii)] (B) Guidance;

- ~~[(iii)]~~ (C) Placement;
- ~~[(iv)]~~ (D) Maintenance, not exceeding the estimated costs of subsistence during vocational rehabilitation;
- ~~[(v)]~~ (E) Occupational licenses, tools, equipment, initial stocks, and supplies (including equipment and initial stocks and supplies for vending stands), books, and training materials;
- ~~[(vi)]~~ (F) Transportation (other than provided as diagnostic and related services);
- ~~[(vii)]~~ (G) Physical restoration;
- ~~[(viii)]~~ (H) Reader services for the blind;
- ~~[(ix)]~~ (I) Interpreter services for the deaf;
- ~~[(x)]~~ (J) Telecommunications, sensory, or other technological aids and devices;
- ~~[(xi)]~~ (K) Services to family members;
- ~~[(xii)]~~ (L) Post employment services; and
- ~~[(xiii)]~~ (M) Other goods and services which will benefit an individual's employability.

~~[(11) The term "workshop"]~~ "Workshop" means a place where any manufacture or handiwork is carried on and which is operated for the primary purpose of providing remunerative employment to severely handicapped individuals who cannot be readily absorbed in the competitive labor market."

SECTION 5. Section 377-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "employee" to read:

~~"Employee" includes any person, other than an independent contractor, working for another for hire in the State, and shall not be limited to the employees of a particular employer unless the context clearly indicates otherwise; and,~~ "Employee" includes any individual whose work has ceased solely as a consequence of or in connection with any current labor dispute or because of any unfair labor practice on the part of an employer and ~~[(A)] who has not [refused];~~

- (1) ~~Refused~~ or failed to return to work upon the final disposition of a labor dispute or a charge of an unfair labor practice by a tribunal having competent jurisdiction of the same or whose jurisdiction was accepted by the employee or the employee's representative, ~~[(B)] who has not been;~~
- (2) ~~Been~~ found to be committing or a party to any unfair labor practice hereunder, ~~[(C)] who has not obtained;~~
- (3) Obtained regular and substantially equivalent employment elsewhere; ~~or [(D)] who has not been~~
- (4) Been absent from the individual's employment for a substantial period of time during which reasonable expectancy of settlement has ceased (except by an employer's unlawful refusal to bargain) and whose place has been filled by another engaged in the regular manner for an indefinite or protracted period and not merely for the duration of a strike or lockout;

~~but shall]. "Employee" does not include any individual employed in the domestic service of a family or person at the family's or person's home or any individual employed by the individual's parent or spouse, or any person employed in an executive or supervisory capacity, or any individual employed by any employer employing less than two individuals, or any individual subject to the jurisdiction of the Federal Railway Labor Act or the National Labor Relations Act, as amended from time to time; provided that the term "employee".~~ "Employee" includes any individual subject to the jurisdiction of the National Labor Rela-

tions Act, as amended from time to time, but over whom the National Labor Relations Board has declined to exercise jurisdiction or has indicated by its decisions and policies that it will not assume jurisdiction."

2. By amending the definition of "secondary boycott" to read:

"“Secondary boycott” includes combining or conspiring to cause or threaten to cause injury to one with whom no labor dispute exists, whether by ~~[(A) withholding];~~

(1) Withholding patronage, labor, or other beneficial business intercourse; ~~[(B) picketing, (C) refusing];~~

(2) Picketing;

(3) Refusing to handle, install, use, or work on particular materials, equipment, or supplies; ~~or [(D) by any]~~

(4) Using any other unlawful means,

in order to bring one against one's will into a concerted plan to coerce or inflict damage upon another."

SECTION 6. Section 379-3, Hawaii Revised Statutes, is amended to read as follows:

**"§379-3 Advertising.** (a) If any person advertises for, or seeks employees by means of newspapers, posters, letters, radio, television, or by means of any employment agency to work for ~~[him]~~ that person or the person for whom ~~[he]~~ that person is acting at any shop, plant, or establishment, while a labor dispute is still in active progress at the shop, plant, or establishment, ~~[he]~~ that person shall plainly and explicitly mention in the advertisement or solicitation that a labor dispute exists.

(b) The person soliciting or advertising for employees in the manner set forth ~~[herein]~~ in this section shall use in the advertisement or solicitation ~~[his]~~ that person's own name, and, if ~~[he]~~ that person is representing another, the name of the person ~~[he]~~ that person is representing and at whose direction and under whose authority the solicitation or advertisement is made. The appearance of this name in connection with the advertisement or solicitation shall be deemed prima facie evidence as to the person responsible for the advertisement or solicitation."

SECTION 7. Section 380-14, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of section 377-7(5), (6), (7), (8), and (9), the preliminary investigation of ~~[such]~~ that charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred. If, after the investigation, the board has reasonable cause to believe the charge is true, it shall petition any circuit court of the State within any circuit where the unfair labor practice in question has occurred, is alleged to have occurred, or wherein the person resides or transacts business, for appropriate injunctive relief pending the final adjudication of the board with respect to ~~[such]~~ that matter. Upon the filing of any such petition, the circuit court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law or rule of court; provided ~~[further]~~ that no temporary restraining order shall be issued without notice unless a petition alleges that substantial and irreparable injury to the charging party will be unavoidable and the temporary restraining order shall be effective for no longer than five days and will become void at the expiration of ~~[such]~~ that period; provided further that the board shall not apply

for any restraining order under section 377-7(5), (6), (7), (8), and (9) if a charge against the employer under section 377-6(2) has been filed and after the preliminary investigation, ~~it~~ the board has reasonable cause to believe that the charge is true and that a complaint should ~~issue~~ be issued. Upon the filing of any such petition, the courts shall cause notice thereof to be served upon any person involved in the charge and the person, including the charging party, shall be given an opportunity to appear by counsel and present any relevant testimony; provided ~~further~~ that for the purposes of this subsection, circuit courts shall be deemed to have jurisdiction of a labor organization in:

- (1) ~~in the~~ The circuit in which the organization maintains its principal office~~;~~; or
- (2) ~~in any~~ Any circuit in which ~~its~~ the organization's duly authorized officers or agents are engaged in promoting or protecting the interests of employee members. The service of legal process upon ~~such~~ an officer or agent shall constitute service upon the labor organization and make the organization a party to the suit."

SECTION 8. Section 381-9, Hawaii Revised Statutes, is amended to read as follows:

**"§381-9 Strikes and lockouts prohibited, when.** (a) It shall be unlawful for any employees of a public utility to call a strike or go out on strike causing or threatening to cause an interruption of public utility service, or for any public utility to lock out its employees when the action would cause or threaten to cause an interruption of public utility service, except as the action may be taken ~~following~~ in compliance with this chapter.

(b) It shall be unlawful for any person or persons to instigate, induce, or encourage any other person or persons to engage in any strike or lockout ~~which~~ that would cause an interruption of public utility service in violation of this chapter.

(c) During the term of any collective bargaining agreement, there shall be no lockout by the public utility and there shall be no strike on the part of any employees covered by the agreement, except where:

- (1) ~~a~~ A dispute arises under the agreement concerning the interpretation or application of the terms of the collective bargaining agreement, and the agreement contains no procedure for the settlement of the dispute; or
- (2) ~~in~~ In accordance with the terms of the collective bargaining agreement, the parties undertake negotiations for a new agreement or an amendment of the existing agreement pursuant to specific designation in the agreement of a certain time or period for ~~such~~ the negotiations, ~~and~~ no agreement has been reached at the expiration of the time or period, and the agreement does not prohibit strikes or lockouts following ~~such~~ the negotiation and failure to arrive at agreement;

~~and~~ provided that the provisions of this chapter for settlement of disputes have first been complied with."

SECTION 9. Section 383-144, Hawaii Revised Statutes, is amended to read as follows:

**"§383-144 Unlawful disclosures.** If any individual, whether an employee or member of the department of labor and industrial relations, or the referee, in violation of section 383-95, makes any disclosure of information obtained

from any employing unit or individual in the administration of this chapter, or if any ~~[person]~~ individual who has obtained any list of applicants for work, or of claimants or recipients of benefits, under this chapter, ~~[shall use or permit]~~ uses or permits the use of ~~[such]~~ the list for any political purpose, ~~[he]~~ that individual shall be fined not less than \$20 nor more than \$200, or imprisoned not more than ninety days, or both."

SECTION 10. Section 386-6, Hawaii Revised Statutes, is amended to read as follows:

**"§386-6 Territorial applicability.** (a) ~~[The provisions of this]~~ This chapter shall be applicable to all work injuries sustained by employees within the territorial boundaries of the State.

(b) If an employee who has been hired in the State suffers work injury, ~~[he]~~ the employee shall be entitled to compensation under this chapter even though the injury was sustained without the State. The right to compensation shall exclude all other liability of the employer for damages as provided in section 386-5. All contracts of hire of employees made within the State shall be deemed to include an agreement to that effect.

(c) If an employee who has been hired without the State is injured while engaged in ~~[his employer's business]~~ the business of the employee's employer, and is entitled to compensation for the injury under the law of the state or territory where ~~[he]~~ the employee was hired, ~~[he]~~ the employee shall be entitled to enforce against ~~[his]~~ the employee's employer ~~[his]~~ the employee's rights in this State if ~~[his]~~ the employee's rights are such that they can reasonably be determined and dealt with by the director of labor and industrial relations, the appellate board, and the court in this State."

SECTION 11. Section 386-8, Hawaii Revised Statutes, is amended to read as follows:

**"§386-8 Liability of third person.** (a) When a work injury for which compensation is payable under this chapter has been sustained under circumstances creating in some person other than the employer or another employee of the employer acting in the course of ~~[his]~~ employment a legal liability to pay damages on account thereof, the injured employee or ~~[his]~~ the injured employee's dependents (hereinafter referred to collectively as "the employee") may claim compensation under this chapter and recover damages from ~~[such]~~ that third person.

(b) If the employee commences an action against ~~[such]~~ a third person ~~[he]~~ the employee shall without delay give the employer written notice of the action and the name and location of the court in which the action is brought by personal service or registered mail. The employer ~~[may]~~, at any time before trial on the facts, may join as party plaintiff.

(c) If within nine months after the date of the personal injury the employee has not commenced an action against ~~[such]~~ a third person, the employer, having paid or being liable for compensation under this chapter, shall be subrogated to the rights of the injured employee. Except as limited by chapter 657, the employee may at any time commence an action or join in any action commenced by the employer against ~~[such]~~ a third person.

(d) No release or settlement of any claim or action under this section is valid without the written consent of both employer and employee. The entire amount of the settlement after deductions for attorney's fees and costs as ~~[hereinafter]~~ provided ~~[in this section]~~ is subject to the employer's right of reimburse-

ment for ~~[his]~~ the employer's compensation payments under this chapter and ~~[his]~~ the employer's expenses and costs of action.

(e) If the action is prosecuted by the employer alone, the employer shall be entitled to be paid from the proceeds received as a result of any judgment for damages, or settlement in case the action is compromised before judgment, the reasonable litigation expenses incurred in preparation and prosecution of ~~[such]~~ the action, together with a reasonable attorney's fee, which shall be based solely upon the services rendered by the employer's attorney in effecting recovery both for the benefit of the employer and the employee. After the payment of ~~[such]~~ the expenses and attorney's fee, the employer shall apply out of the amount of the judgment or settlement proceeds an amount sufficient to reimburse the employer for the amount of ~~[his]~~ the employer's expenditure for compensation and shall pay any excess to the injured employee or other person entitled thereto.

(f) If the action is prosecuted by the employee alone, the employee shall be entitled to apply out of the amount of the judgment for damages, or settlement in case the action is compromised before judgment, the reasonable litigation expenses incurred in preparation and prosecution of ~~[such]~~ the action, together with a reasonable attorney's fee, which shall be based solely upon the services rendered by the employee's attorney in effecting recovery both for the benefit of the employee and the employer. After the payment of ~~[such]~~ the expenses and attorney's fee, there shall be applied out of the amount of the judgment or settlement proceeds, the amount of the employer's expenditure for compensation, less ~~[his]~~ the employer's share of ~~[such]~~ the expenses and attorney's fee. On application of the employer, the court shall allow as a first lien against the amount of the judgment for damages or settlement proceeds, the amount of the employer's expenditure for compensation, less ~~[his]~~ the employer's share of ~~[such]~~ the expenses and attorney's fee.

(g) If the action is prosecuted both by the employee and the employer, in a single action or in consolidated actions, and they are represented by the same agreed attorney or by separate attorneys, there shall first be paid from any judgment for damages recovered, or settlement proceeds in case the action or actions ~~[be]~~ are settled before judgment, the reasonable litigation expenses incurred in preparation and prosecution of ~~[such]~~ the action or actions, together with reasonable attorney's fees based solely on the services rendered for the benefit of both parties where they are represented by the same attorney, and where they are represented by separate attorneys, based solely upon the service rendered in each instance by the attorney in effecting recovery for the benefit of the party represented. After the payment of ~~[such]~~ the expenses and attorneys' fees, there shall be applied out of the amount of the judgment for damages, or settlement proceeds an amount sufficient to reimburse the employer for the amount of ~~[his]~~ the employer's expenditure for compensation and any excess shall be paid to the injured employee or other person entitled thereto.

(h) ~~[In the event that]~~ If the parties are unable to agree upon the amount of reasonable litigation expenses and the amount of attorneys' fees under this section ~~[then]~~, the ~~[same]~~ expenses and attorneys' fees shall be fixed by the court.

(i) After reimbursement for ~~[his]~~ the employer's compensation payments, the employer shall be relieved from the obligation to make further compensation payments to the employee under this chapter up to the entire amount of the balance of the settlement or the judgment, if satisfied, as the case may be, after deducting the cost and expenses, including attorneys' fees.

(j) The amount of compensation paid by the employer or the amount of compensation to which the injured employee is entitled shall not be admissible in evidence in any action brought to recover damages.



(k) Another employee of the same employer shall not be relieved of ~~[his] that employee's~~ liability as a third party, if the personal injury is caused by ~~[his] that employee's~~ wilful and wanton misconduct.

(l) If the special compensation fund has paid or is liable for any compensation under this chapter, the fund shall be entitled to all the rights and remedies granted an employer under this section; provided that the employer's right to reimbursement for compensation payments and expenses under this chapter shall have priority."

SECTION 12. Section 386-8.5, Hawaii Revised Statutes, is amended to read as follows:

**"§386-8.5 Limits of third party liability.** (a) ~~[Section]~~ Notwithstanding section 386-8 and any other law to the contrary [notwithstanding], when a work injury for which compensation is payable under this chapter has been sustained, the discussion or furnishing of, or failure to discuss or furnish, or failure to enforce any safety, health, or personal conduct provision to protect employees against work injuries, in any collective bargaining agreement or in negotiations thereon, shall not subject a labor organization representing the injured employee to any civil liability for the injury.

(b) As used in this section~~[-the terms]:~~

"Health provision" includes but is not limited to health inspections and advisory services.

~~[(1)]~~ "Labor organization" means any organization [which] that exists and is constituted for the purposes, in whole or in part, of collective bargaining or dealing with employers, concerning grievances, terms, or conditions of employment, or of other mutual aid or protection, and includes both private industry and public employment labor organizations.

"Personal conduct provision" includes but is not limited to contractual language covering sexual harassment or assault and related infliction of emotional distress or invasion of privacy.

~~[(2)] "Safety provision" includes[-] but is not limited to[-] safety inspections and advisory services[-; "health provision" includes, but is not limited to, health inspections and advisory services; "personal conduct provision" includes, but is not limited to, contractual language covering sexual harassment or assault and related infliction of emotional distress or invasion of privacy].~~

~~[(b)]~~ (c) No construction design professional who is retained to perform professional services on a construction project or any employee of a construction design professional who is assisting or representing the construction design professional in the performance of professional services on the site of the construction project shall be liable for any injury on the construction project resulting from the employer's failure to comply with safety standards on the construction project for which compensation is recoverable under this chapter unless the responsibility for the compliance of safety practices is specifically assumed by contract or by other conduct of the construction design professional or any employee of the construction design professional who is assisting or representing the construction design professional in the performance of professional services on the site of the construction project. The limitation of liability provided by this subsection to any construction design professional shall not apply to the negligent preparation of design plans or specifications."

SECTION 13. Section 386-42, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The following persons, and no others, shall be deemed dependents and entitled to income, and indemnity benefits under this chapter:

- (1) A child who is ~~[(1) unmarried];~~
    - (A) Unmarried and under eighteen years~~[-or (2) unmarried];~~
    - (B) Unmarried and under twenty years if the child is a full-time student at a high school, business school, or technical school, or unmarried and under twenty-two years if the child is a full-time undergraduate student at a college~~[-or (3) unmarried];~~
    - (C) Unmarried and incapable of self-support~~[-];~~ or ~~[(4) married]~~
    - (D) Married and under eighteen years, if actually dependent upon the deceased;
  - (2) The surviving spouse or reciprocal beneficiary, if either living with the deceased at the time of the injury or actually dependent upon the deceased;
  - (3) A parent or grandparent, if actually dependent upon the deceased; and
  - (4) A grandchild, brother, or sister, if ~~[(1)]~~ under eighteen years or incapable of self-support, and ~~[(2)]~~ actually and wholly dependent upon the deceased.
- (b) A person shall be deemed to be actually dependent upon the deceased, if ~~[he or she]~~ the deceased contributed all or a substantial portion of the living expenses of ~~[such]~~ that person at the time of the injury.”

SECTION 14. Section 386-43, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

- “(a) The weekly benefits to dependents shall continue:
- (1) To a surviving spouse or reciprocal beneficiary, until death, remarriage, marriage, or entry into a new reciprocal beneficiary relationship with two years’ compensation in one sum upon remarriage, marriage, or entry into a new reciprocal beneficiary relationship~~[-];~~
  - (2) To or for a child~~[-(1) so];~~
    - (A) So long as unmarried, until attainment of the age of eighteen~~[-or (2) so];~~
    - (B) So long as unmarried, until attainment of the age of ~~[twenty];~~
      - (i) Twenty if the child is a full-time student at a high school, business school, technical school~~[-];~~ or ~~[unmarried and under twenty-two years]~~
      - (ii) Twenty-two if the child is a full-time undergraduate student at a college~~[-or (3) so];~~
    - (C) So long as unmarried, until termination of the child’s incapability of self-support~~[-];~~ or ~~[(4) until]~~
    - (D) Until marriage, except that in the case of a married child under eighteen, weekly benefits shall continue during the period of actual dependency until attainment of the age of eighteen~~[-];~~
  - (3) To a parent or grandparent, for the duration, whether continuous or not, of ~~[such]~~ the actual dependency, provided that the amount of the weekly benefits shall at no time exceed the amount payable at the time of death~~[-];~~ and
  - (4) To or for a grandchild, brother, or sister, for the period in which ~~[he or she]~~ that grandchild, brother, or sister remains actually and wholly dependent until attainment of the age of eighteen or termination of the incapability of self-support.
- (b) The aggregate weekly benefits payable on account of any one death shall not exceed the product of ~~[312]~~ three hundred twelve times the effective

maximum weekly benefit rate prescribed in section 386-31, but this limitation shall not apply with respect to benefits to a surviving spouse or reciprocal beneficiary who is physically or mentally incapable of self-support and unmarried as long as ~~[he or she]~~ that surviving spouse or reciprocal beneficiary remains in that condition and to benefits to a child and to benefits to an unmarried child over eighteen incapable of self-support as long as ~~[he or she]~~ that unmarried child is otherwise entitled to ~~[such]~~ compensation."

SECTION 15. Section 392-3, Hawaii Revised Statutes, is amended by amending the definition of "benefit year" to read as follows:

"Benefit year" with respect to any individual means the one-year period beginning with the first day of the first week of disability with respect to which the individual first files a valid claim for temporary disability benefits. A subsequent benefit year is the one-year period following a preceding benefit year, beginning either ~~[(A)]~~ with the first ~~[day]~~:

- (1) Day of the first week of disability with respect to which the individual files a subsequent claim for temporary disability benefits~~;~~; or ~~[(B) with the first workday]~~
- (2) Workday following the expiration of the preceding benefit year if a disability for which temporary disability benefits are payable during the last week of the preceding benefit year continues and the individual is eligible for further benefit payments."

SECTION 16. Section 460J-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There shall be a pest control board of nine members. Six members of the board shall be appointed by the governor; of which four shall have been for a period of not less than five years preceding the date of their appointment, licensed pest control operators actively engaged in the business of pest control; and two shall be public members. Three members of the board shall serve on an ex officio, voting basis: the chairperson of the board of agriculture or the chairperson's representative, the director of health or the director's representative, and the chairperson of the department of ~~[entomology]~~ plant and environmental protection sciences of the college of tropical agriculture and human resources of the University of Hawaii or the chairperson's representative. No two members of the board shall be employed by or associated with the same business firm engaged in pest control."

SECTION 17. Section 601-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The chief justice shall possess the following powers, subject to rules as may be adopted by the supreme court:

- (1) To assign circuit judges from one circuit to another;
- (2) In a circuit court with more than one judge, ~~[(A)]~~ to ~~[make]~~:
  - (A) Make assignments of calendars among the circuit judges for a period as the chief justice may determine and, as deemed advisable from time to time, to change assignments of calendars or portions thereof (but not individual cases) from one judge to another~~;~~; and ~~[(B) to appoint]~~
  - (B) Appoint one of the judges, for a period as the chief justice may determine, as the administrative judge to manage the business of the court, subject to the rules of the supreme court and the direction of the chief justice;

- (3) To prescribe for all of the courts a uniform system of keeping and periodically reporting statistics of their business;
- (4) To procure from all of the courts estimates for their appropriations; with the cooperation of the representatives of the court concerned, to review and revise them as the chief justice deems necessary for equitable provisions for the various courts according to their needs and to present the estimates, as reviewed and revised by the chief justice, to the legislature as collectively constituting a unified budget for all of the courts;
- (5) To exercise exclusive authority over the preparation, explanation, and administration of the judiciary budget, programs, plans, and expenditures, including without limitation policies and practices of financial administration and the establishment of guidelines as to permissible expenditures~~[-]~~; provided that all expenditures of the judiciary shall ~~[be in conformance]~~ conform with program appropriations and provisions of the legislature, and all powers of administration over judiciary personnel that are specified in title 7; and
- (6) To do all other acts that may be necessary or appropriate for the administration of the judiciary."

SECTION 18. Section 603-21.7, Hawaii Revised Statutes, is amended to read as follows:

**"§603-21.7 Nonjury cases.** The several circuit courts shall have jurisdiction, without the intervention of a jury except as provided by statute, as follows:

- ~~[(a)]~~ (1) Of actions or proceedings:
  - ~~[(4)]~~ (A) For the determination and declaration of heirs of deceased persons, which jurisdiction shall be in addition to the probate jurisdiction of the court;
  - ~~[(2)]~~ (B) For the admeasurement of dower and curtesy, or the partition of real estate; and
  - ~~[(3)]~~ (C) For ~~[enforcing and regulating]~~ the enforcement and regulation of the execution of trusts, whether the trusts relate to real or personal estate~~[-]~~; for the foreclosure of mortgages~~[-]~~; and for the specific performance of contracts~~[-, and]~~; provided that, except when a different provision is made, they shall have original and exclusive jurisdiction of all other cases in the nature of suits in equity, according to the usages and principles of courts of equity; and
- ~~[(b)]~~ (2) Of actions or proceedings in or in the nature of habeas corpus, prohibition, mandamus, quo warranto, and all other proceedings in or in the nature of applications for writs directed to courts of inferior jurisdiction, to corporations and individuals, as may be necessary to the furtherance of justice and the regular execution of the law."

SECTION 19. Section 603-36, Hawaii Revised Statutes, is amended to read as follows:

**"§603-36 Actions and proceedings, where to be brought.** Actions and proceedings of a civil nature within the jurisdiction of the circuit courts shall be brought as follows:

- (1) Actions described in section ~~[603-21.5(2)]~~ 603-21.5(a)(2) shall be brought in the circuit where it is alleged the penalty or forfeiture was incurred;

- (2) Actions in the nature of ejectment or trespass quare clausum fregit or to quiet title to or partition real property shall be brought in the circuit in which the real property in question is situated; provided that if the real property, partition of which is sought, lies in more than one circuit, the action may be brought in any circuit in which the ~~[same]~~ real property or any part thereof is situated;
- (3) Proceedings concerning trusts and the estates of decedents, missing persons, protected persons, minors, and incapacitated persons~~;~~ shall be brought as prescribed by chapter 560;
- (4) Applications for writs directed to courts of inferior jurisdiction or for writs of quo warranto~~;~~ shall be made in the circuit in which the alleged occasion for relief by any such writ arises; provided that in case any such writ is necessary in the prosecution or furtherance of any action or proceeding already begun or pending before any circuit court, the court before which the action or proceeding has been begun or is pending may issue the writ even though the alleged occasion for relief arose in another circuit; and
- (5) Actions other than those specified ~~[above]~~ in paragraphs (1) to (4) shall be brought in the circuit where the claim for relief arose or where the defendant is domiciled; provided that if there is more than one defendant, then the action shall be brought in the circuit in which the claim for relief arose unless a majority of the defendants are domiciled in another circuit, whereupon the action may be brought in the circuit where the majority of the defendants are domiciled."

SECTION 20. Section 606-4, Hawaii Revised Statutes, is amended to read as follows:

**"§606-4 Custody; disposition of exhibits. (a)** The clerks of the supreme~~;~~ court, intermediate appellate court, circuit~~;~~ courts, and district courts shall have the custody of all records, books, papers, moneys, exhibits, and other things pertaining to their respective courts.

**(b)** The attorney of the party who introduced the exhibits or things in evidence or left them in the custody of the court, or the party, if not represented by any attorney, shall remove them from the court within six months after the final termination of the action to which the exhibits or things are related. The clerks shall have the authority and power, upon the written approval of a judge of the court given in particular actions or proceedings, to sell, destroy, or otherwise dispose of exhibits and things marked for identification, other than original files belonging to other actions, which have come into their possession or custody under this section, when ~~[such]~~ those exhibits or things have not been already removed by their owners or by the attorneys representing the owners and when more than six months has elapsed since the final termination of the action to which the exhibits or things are related.

**(c)** All moneys received from sales under this section shall be ~~[forth-~~ with] deposited with the ~~[state]~~ director of finance as government realizations."

SECTION 21. Section 607-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

**"(b)** ~~[Anything]~~ Notwithstanding anything in this section or any other law to the contrary ~~[notwithstanding]~~, when any process or subpoena is served by a subordinate of the sheriff or chief of police, it shall be illegal for the sheriff or chief of police;

- (1) ~~[if] If~~ and so long as the sheriff or chief of police is being paid a salary by the State or the county, to receive or collect from the subordinate any portion of the fees, mileage, or other expenses collected by the subordinate[-]; or
- (2) ~~[if] If~~ and so long as the sheriff or chief of police is not being paid any salary, to collect or receive from the subordinate more than ten per cent of the fees accruing from the service, or any portion of the mileage or other expenses collected by the subordinate.

Where a subpoena is served in behalf of the State or any county by a nonsalaried subordinate of the sheriff or chief of police, the regular fee for the service shall be payable to the subordinate. Nothing in this section shall be deemed to prohibit the police commission of any county from requiring that all fees, mileage, and expenses be paid into a police benefit fund."

SECTION 22. Section 607-14.7, Hawaii Revised Statutes, is amended to read as follows:

**"[§607-14.7] Attorney's fees, costs, and expenses; judgment creditors.**

In addition to any other attorney's fees, costs, and expenses, which may or are required to be awarded, and notwithstanding any law to the contrary, the court in any civil action may award to a judgment creditor, from a judgment debtor, reasonable attorney's fees, costs, and expenses incurred by the judgment creditor in obtaining or attempting to obtain satisfaction of a money judgment, whether by execution, examination of judgment debtor, garnishment, or otherwise. The court may award attorney's fees ~~[which]~~ that it determines ~~[is]~~ are reasonable, but shall not award fees in excess of the following schedule:

- (1) ~~[25] Twenty-five~~ per cent on the first \$1,000 or fraction thereof[-];
- (2) ~~[20] Twenty~~ per cent on the second \$1,000 or fraction thereof[-];
- (3) ~~[15] Fifteen~~ per cent on the third \$1,000 or fraction thereof[-];
- (4) ~~[10] Ten~~ per cent on the fourth \$1,000 or fraction thereof[-];
- (5) ~~[5] Five~~ per cent on the fifth \$1,000 or fraction thereof[-]; and
- (6) 2.5 per cent on any amount in excess of \$5,000.

The ~~[above]~~ fees shall be assessed on the amount of judgment, exclusive of costs and all other attorney's fees."

SECTION 23. Section 607-21, Hawaii Revised Statutes, is amended to read as follows:

**"§607-21 Expense of bond.** Any receiver, assignee, guardian, trustee, committee, personal representative, commissioner, or other fiduciary required by law or the order of any court to give a bond, or other obligation as such, may include as a part of the lawful and chargeable expense of executing ~~[his]~~ the individual's trust ~~[such]~~ a reasonable sum, to be paid to a company authorized under the laws of the State to become surety on ~~[such]~~ the bond or obligation[-] for becoming ~~[his]~~ the individual's surety thereon, as may be allowed by the court in which ~~[he]~~ the individual is required to account, not exceeding one per cent a year on the amount of the bond."

SECTION 24. Section 624-41, Hawaii Revised Statutes, is amended to read as follows:

**"§624-41 Action for. (a)** A person who, before action, ~~[is desirous of perpetuating his]~~ desires to perpetuate the person's own testimony or the testimony of any other person, may proceed in accordance with the rules of court or

may bring a civil action in the circuit court of any circuit in which it is fair and equitable to the parties that the matter be heard, setting forth:

- (1) ~~[that]~~ That the plaintiff expects to be a party to an action cognizable in a court of this State but is presently unable to bring it or cause it to be brought[;];
- (2) ~~[the]~~ The subject matter of the expected action and ~~[his]~~ the plaintiff's interest therein[;];
- (3) ~~[the]~~ The facts ~~[which he]~~ that the plaintiff desires to establish by the proposed testimony and ~~[his]~~ the plaintiff's reasons for desiring to perpetuate it[;];
- (4) ~~[the]~~ The names of the persons ~~[he]~~ the plaintiff expects will be adverse parties and their addresses[;]; and
- (5) ~~[the]~~ The names and addresses of the persons to be examined and the substance of the testimony ~~[which he]~~ that the plaintiff expects to elicit from each; and

praying for an order authorizing the plaintiff to take the depositions of the persons to be examined named in the action, for the purpose of perpetuating their testimony.

(b) Personal service shall be made on the expected adverse parties as in other civil actions. In case service cannot be made in the State, service may be made as provided by sections 634-24 and 634-25, but if an action is brought under this section, service shall not be made by publication."

SECTION 25. Section 633-34, Hawaii Revised Statutes, is amended to read as follows:

**"§633-34 Award of costs.** In any action pursuant to this chapter, the award of costs is in the discretion of the court, which may include therein the reasonable cost of bonds and undertakings, and other reasonable expenses incident to the action, incurred by either party. No ~~[attorneys']~~ attorney's fees or commissions shall be allowed or awarded under ~~[sections]~~ section 607-14 ~~[and 607-17]~~ by any judgment of the small claims division."

SECTION 26. Section 634-23, Hawaii Revised Statutes, is amended to read as follows:

**"§634-23 Joinder of unknown persons; service when defendant unknown or absent.** Where an action or proceeding involves or concerns any property, tangible or intangible, within the jurisdiction of a circuit court, or any legal or equitable estate, right or interest, vested or contingent, in any such property, or any status or res within the jurisdiction of a circuit court:

- (1) Any person having a claim, interest, or concern so as to be a necessary or proper party, who cannot be identified or whose name is unknown to the plaintiff, may be made party to the action or proceeding as provided by the rules of court[;];
- (2) If a defendant is unknown or does not reside within the State or if, after due diligence, the defendant cannot be served with process within the State, and the facts shall appear by affidavit to the satisfaction of the court, it may order that service be made as provided by section 634-24 or by publication, as may be appropriate; provided that service by publication shall not be valid unless[;] it is shown to the satisfaction of the court that service cannot be made as provided by section 634-24. The affidavit required by this paragraph shall set forth facts based upon the personal knowledge of the af-

fiant concerning the methods, means, and attempts made to locate and effect personal service on the defendant and any other pertinent facts[-];

- (3) Service by publication shall be made in at least one newspaper published in the State and having a general circulation in the circuit in which the action or proceeding has been instituted, in ~~[such]~~ a manner and for ~~[such]~~ a time as the court may order, but not less than once in each of four successive weeks, the last publication to be not less than twenty-one days prior to the return date stated therein unless a different time is prescribed by order of the court. If the action or proceeding concerns real property, the court shall order additional notice by posting a copy of the summons upon the property[-];
- (4) Any adjudication ~~[shall]~~, as regards a defendant served by publication pursuant to this section, or served as provided by section 634-24, shall affect only the property, status or res ~~[which]~~ that is the subject of the action, unless the:
  - (A) ~~[the defendant]~~ Defendant appears in the action and defends on the merits, in which case the defendant shall be liable to a personal judgment with respect to the claim so defended, including in the case of a foreclosure action a deficiency judgment[-]; or
  - (B) ~~[the service]~~ Service is authorized by section 634-25 or other ~~[provision of]~~ law, in which case the defendant shall be liable to any judgment authorized by ~~[such]~~ that law[-]; and
- (5) Nothing ~~[herein contained]~~ in this section limits or affects the right to serve any process in any other manner now or hereafter provided by law or rule of court."

SECTION 27. Section 634-30, Hawaii Revised Statutes, is amended to read as follows:

**"[H]§634-30[H] Organizations and associations, service of process on; judgment.** When two or more persons associate and act, whether for profit or not, under a common name, including associating and acting as a labor organization or employer organization, whether the common name comprises the names of the persons or not, they may sue in or be sued by the common name, and the process shall be served on any officer, trustee, or agent of the association if ~~[he]~~ an officer, trustee, or agent can be found, or if no ~~[such]~~ officer, trustee, or agent can be found as shown by the return of the serving officer, then upon any one or more members of the association, or as otherwise provided by rule of court. Any such service constitutes service upon the association. The judgment in ~~[such]~~ those cases shall accrue to the joint or common benefit of and bind the joint or common property of the association, the same as though all members had been named as parties to the action. No judgment shall be enforceable against any ~~[individual] person or [his] the person's~~ individual assets unless the:

- (1) ~~[he]~~ Person has been joined and served as an individual party to the action[-]; or
- (2) ~~[the judgment]~~ Judgment is so enforceable pursuant to section 634-3[-] or any other law."

SECTION 28. Section 634-32, Hawaii Revised Statutes, is amended to read as follows:



**“~~§§634-32~~ Other laws not affected.** Nothing contained in sections 634-30 and 634-31 shall be construed to amend or repeal chapter 425 or ~~[433]~~ 432, article 1, or section 634-3.”

SECTION 29. Section 635-12, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Whenever ~~[provision is made by statute]~~ a statute provides for waiver of a jury, the same shall not be deemed to preclude trial by jury when, in accordance with the rules of court~~[-]~~:

- (1) ~~[an]~~ An order of the court relieves a party from the party’s waiver~~[-]~~; or
- (2) ~~[approval]~~ Approval of or consent to the waiver is required in a criminal case and has not been given.”

SECTION 30. Section 651-2, Hawaii Revised Statutes, is amended to read as follows:

**“§651-2 Writ; issued when.** The plaintiff, in any action upon a contract, express or implied, ~~[may,]~~ at the time of commencing the action, or at any time afterward before judgment, may have the property of the defendant, or that of any one or more of several defendants, which is not exempt from execution, attached in the manner hereinafter prescribed, as security for the satisfaction of ~~[such]~~ any judgment ~~[as]~~ that the plaintiff may recover, but no writ of attachment shall be issued:

- (1) ~~[against]~~ Against the State, or any political municipal corporation, or subdivision thereof~~[-]~~; or
- (2) ~~[in]~~ In circumstances where garnishment is authorized under chapter 652.”

SECTION 31. Section 651-91, Hawaii Revised Statutes, is amended to read as follows:

**“§651-91 Definitions.** As used in this subpart:

~~[(+)]~~ “Head of a family” includes within its meaning:

- ~~[(A)]~~ (1) A man and woman when married, except as provided in section 651-93~~[-]~~;
- ~~[(B)]~~ (2) Every individual who is residing on the real property and who has under ~~[his or her]~~ that individual’s care or maintenance, either:
  - ~~[(i)]~~ (A) ~~[His or her]~~ That individual’s minor child, or minor grandchild, or the minor child of ~~[his or her]~~ that individual’s deceased wife or husband;
  - ~~[(ii)]~~ (B) A minor brother or sister, or the minor child of a deceased brother or sister;
  - ~~[(iii)]~~ (C) A father, mother, grandfather, or grandmother;
  - ~~[(iv)]~~ (D) The father, mother, grandfather, or grandmother of a deceased husband or wife; or
  - ~~[(v)]~~ (E) An unmarried brother, sister, or any other of the relatives mentioned in this ~~[subparagraph,]~~ paragraph who have attained the age of majority~~[-]~~; and
- ~~[(C)]~~ (3) Head of household as defined in section 2(b) of the Internal Revenue Code of 1954, as amended.
- ~~[(2)]~~ “Long-term lease” means a lease for twenty years or more.
- ~~[(3)]~~ “Owner” means an individual who has an interest in real property.

[(4)] "Person" means any individual under sixty-five years of age other than the head of a family.

[(5)] "Real property" consists of the dwelling house in which the owner resides and one parcel of land not to exceed one acre, upon which it is situated together with other buildings thereon. This parcel may be in fee simple or any other interest in real property [which] ~~that~~ vests the immediate right of possession, even though [such] ~~the immediate~~ right of possession is not exclusive, and includes land held under long-term lease, ownership rights in a condominium or stock cooperative unit."

SECTION 32. Section 651-124, Hawaii Revised Statutes, is amended to read as follows:

**"§651-124 Pension money exempt.** The right of a debtor to a pension, annuity, retirement or disability allowance, death benefit, any optional benefit, or any other right accrued or accruing under any retirement plan or arrangement described in section 401(a), 401(k), 403(a), 403(b), 408, 408A, 409 (as in effect prior to January 1, 1984), 414(d), or 414(e) of the Internal Revenue Code of 1986, as amended, or any fund created by the plan or arrangement, or any ABLE savings account established pursuant to chapter 256B, shall be exempt from attachment, execution, seizure, the operation of bankruptcy or insolvency laws under title 11 United States Code section 522(b), or under any legal process [whatever]. However, this section shall not apply to:

- (1) A "qualified domestic relations order" as defined in section 206(d) of the Employee Retirement Income Security Act of 1974, as amended, or in section 414(p) of the Internal Revenue Code of 1986, as amended; and
- (2) Contributions made to a plan or arrangement within the three years before the date a debtor files for bankruptcy, whether voluntary or involuntary, or within three years before the date a civil action is initiated against the debtor, except for contributions to a retirement plan established by state statute if the effect would be to eliminate a state employee's retirement service credit."

SECTION 33. Section 652-8, Hawaii Revised Statutes, is amended to read as follows:

**"§652-8 Execution, when.** If the garnishee fails to appear upon the day and hour of hearing named in the summons or writ above mentioned, or if having appeared, [he] ~~the garnishee~~ refuses to disclose upon oath whether [he] ~~the garnishee~~ has goods or effects of the defendant debtor in [his] ~~the garnishee's~~ hands, and their nature and value, or whether a debt is due from [him] ~~the garnishee~~ to the defendant debtor and its amount, or whether [he] ~~the garnishee~~ has any moneys of the defendant debtor in [his] ~~the garnishee's~~ possession for safekeeping, and the amount thereof, the case shall proceed to trial. If the plaintiff recovers a judgment, execution shall issue at [his] ~~the plaintiff's~~ request, against the estate of the contumacious garnishee for the amount of judgment as [his] ~~the garnishee's~~ own proper debt, and the lawful costs; provided that if it appears that the goods and effects are of less value, the debt of less amount and the moneys in safekeeping of less amount than the judgment recovered against the defendant debtor, judgment shall be rendered against the garnishee to the value of the goods or the amount of the debt or the amount of the moneys in safekeeping, and if it appears that the garnishee has no goods or effects of the defendant debtor in [his] ~~the garnishee's~~ hands, or is not indebted to [him;] ~~the defendant~~

debtor, or has no moneys in [~~his~~] the garnishee's possession for safekeeping, then [~~he~~] the garnishee shall recover [~~his~~] the garnishee's lawful costs. However, if [~~he~~] the garnishee appears and on oath discloses fully whether [~~he~~] the garnishee has in [~~his~~] the garnishee's hands the goods or effects of the defendant debtor, or is indebted to the defendant debtor,<sup>1</sup> or has in [~~his~~] the garnishee's possession moneys of the defendant debtor for safekeeping, and it appears to the court that [~~he~~] the garnishee has no [~~such~~] goods or effects[;] of the defendant debtor, or is not so indebted, or has no [~~such~~] moneys of the defendant debtor for safekeeping, then judgment shall be given for [~~him,~~] the garnishee, and [~~he~~] the garnishee shall recover [~~his~~] the garnishee's lawful costs."

SECTION 34. Section 657-32, Hawaii Revised Statutes, is amended to read as follows:

**"§657-32 How computed.** If the right first accrued to any ancestor or predecessor of the person bringing the action or making the entry, or to any persons from, by, or under whom [~~he~~] the person bringing the action or making the entry claims, the twenty years shall be computed from the time when the right first accrued to the ancestor, predecessor, or other persons."

SECTION 35. Section 657-33, Hawaii Revised Statutes, is amended to read as follows:

**"§657-33 Action accrues when.** In the construction of this part, the right to make an entry or commence an action[;] shall be deemed to have first accrued at the following times:

- (1) When any person is disseised, [~~his~~] that person's right of entry or action shall be deemed to have accrued at the time of the disseisin[-];
- (2) When [~~he~~] any person claims as heir or devisee of one who died seised, [~~his~~] that person's right shall be deemed to have accrued at the time of the death, unless there is an estate by the curtesy or in dower, or some other estate intervening after the death of [~~such~~] the ancestor or devisor, in which case [~~his~~] that person's right shall be deemed to have accrued when the intermediate estate shall expire, or when it would have expired by its own limitation[-];
- (3) Where there is [~~such~~] an intermediate estate, and in all other cases, where a party claims in remainder, or reversion, [~~his~~] that party's right so far as it is affected by the limitation herein prescribed, shall be deemed to accrue when the intermediate or precedent estate would have expired by its own limitation, notwithstanding any forfeiture thereof, for which [~~he~~] that party might have entered at an earlier time[-];
- (4) Paragraph (3) shall not prevent any person from entering, when entitled to do so, by reason of any forfeiture or breach of condition, but if [~~he~~] a person claims under such a title, [~~his~~] that person's right shall be deemed to have accrued when the forfeiture was incurred or condition broken[-]; and
- (5) In the cases not otherwise specially provided for, the right shall be deemed to have accrued when the claimant, or the person under whom [~~he~~] the claimant claims, first became entitled to the possession of the premises under the title upon which the entry or action is founded."

SECTION 36. Section 657-35, Hawaii Revised Statutes, is amended to read as follows:

**“§657-35 Extension of time by death.** If the person first entitled to make the entry or bring the action dies during the continuance of any of the disabilities mentioned in section 657-34, the entry may be made or the action brought by ~~by [his] that person's heirs,~~ or any other person claiming from, by, or under ~~[him,]~~ the person first entitled to make the entry or bring the action, at any time within five years after ~~[his] that person's~~ death, notwithstanding the twenty years have expired.”

SECTION 37. Section 658D-4, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) This chapter shall apply only to the arbitration, mediation, or conciliation of disputes between:

(1) Two or more persons at least one of whom is a nonresident of the United States; or

(2) Two or more persons all of whom are residents of the United States if the dispute:

~~[(+)]~~ (A) Involves property located outside the United States;

~~[(+)]~~ (B) Relates to a contract which envisages enforcement or performance in whole or in part outside the United States; or

~~[(+)]~~ (C) Bears some other relation to one or more foreign countries.”

2. By amending subsection (d) to read:

“(d) This chapter shall apply to any arbitration within the scope of this chapter, without regard to whether the place of arbitration is within or without this State:

(1) If the written undertaking to arbitrate expressly provides that the law of this State shall apply; ~~[or]~~

(2) In the absence of a choice of law provision applicable to the written undertaking to arbitrate, if that undertaking forms part of a contract the interpretation of which is to be governed by the laws of this State; or

(3) In any other case, if any arbitral tribunal or other panel established pursuant to section 658D-7 ~~[below]~~ decides under applicable conflict of laws principles that the arbitration shall be conducted in accordance with the laws of this State.”

SECTION 38. Section 660-20, Hawaii Revised Statutes, is amended to read as follows:

**“§660-20 Body to be produced, except when.** The person making the return to a writ of habeas corpus shall bring the body of the person, if in ~~[his] the~~ custody or power~~;~~ of the person making the return, or under ~~[his] the~~ restraint or control~~;~~ of the person making the return, according to the command in the writ, unless prevented by the sickness or infirmity of the person. This shall not prevent the person making the return, if a private person, from demanding in advance actual necessary expenses of travel and transportation.”

SECTION 39. Section 660-23, Hawaii Revised Statutes, is amended to read as follows:

**“§660-23 Evading service, penalties.** The liabilities and penalties of section 660-22 shall also be imposed upon any person who, having in ~~[his]~~ that person's custody or under ~~[his]~~ that person's power any person entitled to a writ of habeas corpus, with intent to elude the service of the writ or to avoid the effect thereof, transfers ~~[such]~~ the person to the custody or places ~~[him]~~ the person under the control or power of any other person, or conceals ~~[him]~~ the person or changes ~~[his]~~ the person's place of confinement.”

SECTION 40. Section 660-25, Hawaii Revised Statutes, is amended to read as follows:

**“§660-25 Notice to other parties, when.** If the person is detained on any process under which any other person has an interest in ~~[his]~~ the person's detention, and the other person or ~~[his]~~ the other person's attorney is within the State and can be notified without unreasonable delay, the person detained shall not be discharged until the other person or ~~[his]~~ the other person's attorney has had an opportunity to be heard.”

SECTION 41. Section 661-1, Hawaii Revised Statutes, is amended to read as follows:

**“§661-1 Jurisdiction.** The several circuit courts of the State and, except as otherwise provided by statute or rule, the several state district courts ~~[shall]~~, subject to appeal as provided by law, shall have original jurisdiction to hear and determine the following matters, and, unless otherwise provided by law, shall determine all questions of fact involved without the intervention of a jury[-]:

- (1) All claims against the State founded upon any statute of the State; ~~[or]~~ upon any ~~[regulation]~~ rule of an executive department; or upon any contract, expressed or implied, with the State, and all claims which may be referred to any such court by the legislature; provided that no action shall be maintained, nor shall any process issue against the State, based on any contract or any act of any state officer ~~[which]~~ that the officer is not authorized to make or do by the laws of the State, nor upon any other cause of action than as herein set forth[-]; and
- (2) All counterclaims, whether liquidated or unliquidated, or other demands whatsoever on the part of the State against any person making claim against the State under this ~~[chapter.]~~ part.”

SECTION 42. Section 661-3, Hawaii Revised Statutes, is amended to read as follows:

**“§661-3 No jurisdiction, when.** No person shall file or prosecute under this ~~[chapter]~~ part any claim for or in respect to which ~~[he]~~ that person or any assignee of ~~[his]~~ that person has pending an action against a person who, at the time when the claim alleged in the action arose, was, in respect thereto, acting or professing to act, directly or indirectly, under the authority of the State.”

SECTION 43. Section 661-4, Hawaii Revised Statutes, is amended to read as follows:

**“§661-4 Action by alien, when.** Aliens who are citizens or subjects of a government ~~[which]~~ that accords to citizens of this State the right to prosecute

claims against ~~[such]~~ that government in its courts shall have the privilege of prosecuting claims against the State under this ~~[chapter.]~~ part.”

SECTION 44. Section 661-5, Hawaii Revised Statutes, is amended to read as follows:

**“§661-5 Limitations on action.** Every claim against the State, cognizable under this ~~[chapter.]~~ part. shall be forever barred unless the action is commenced within two years after the claim first accrues; provided that the claims of persons under legal disability shall not be barred if the action is commenced within one year after the disability has ceased.”

SECTION 45. Section 661-11, Hawaii Revised Statutes, is amended to read as follows:

**“§661-11 Tort claims against State where covered by insurance.** (a) This section applies to an action where:

- (1) ~~[the]~~ The State is a party defendant;
- (2) ~~[the]~~ The subject matter of the claim is covered by a primary insurance policy entered into by the State or any of its agencies; and
- (3) ~~[chapter]~~ Chapter 662 does not apply.

No defense of sovereign immunity shall be raised in an action under this section. However, the State's liability under this section shall not exceed the amount of, and shall be defrayed exclusively by, the primary insurance policy.

(b) An action under this section shall not be subject to sections 661-1 to 661-10.”

SECTION 46. Section 663-8, Hawaii Revised Statutes, is amended to read as follows:

**“§663-8 Damages, future earnings.** Together with other damages which may be recovered by law, the legal representative of the deceased person may recover where applicable under section 663-7 the future earnings of the decedent in excess of the probable cost of the decedent's own maintenance and the provision the decedent would have made for ~~[his or her]~~ the decedent's actual or probable family and dependents during the period of time the decedent would have likely lived but for the accident.”

SECTION 47. Section 663-17, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A pleader may either:

- (1) ~~[state]~~ State as a cross-claim against a ~~[coparty]~~ co-party any claim that the ~~[coparty]~~ co-party is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant; or
- (2) ~~[move]~~ Move for judgment for contribution against any other joint judgment debtor, where in a single action a judgment has been entered against joint tortfeasors, one of whom has discharged the judgment by payment or has paid more than the joint tortfeasor's pro rata share thereof.

If relief can be obtained as provided in this ~~[paragraph]~~ subsection, no independent action shall be maintained to enforce the claim for contribution.”

SECTION 48. Section 668-8.5, Hawaii Revised Statutes, is amended to read as follows:

**“§668-8.5 Adverse claimants.** Unless the action is combined with an action under chapter 669, a person who has not appeared and who claims to hold by title paramount to that under which the plaintiff claims as a cotenant shall not be concluded by the judgment, but may maintain an action asserting ~~[his]~~ that person's title against any or all of the parties, or persons holding under them, within the time in which ~~[he]~~ that person might have brought ~~[such]~~ the action if the action for partition had not been filed.”

SECTION 49. Section 835-1, Hawaii Revised Statutes, is amended to read as follows:

**“§835-1 Material witness order; defined.** A material witness order is a court order:

- (1) ~~[adjudging]~~ Adjudging a person a material witness in a pending criminal action; and
- (2) ~~[fixing]~~ Fixing bail to secure the person's future attendance thereat.”

SECTION 50. Act 98, Session Laws of Hawaii 2012, section 3, as amended by Act 102, Session Laws of Hawaii 2015, section 4, is amended to read as follows:

“SECTION 3. This Act shall take effect upon its approval, and shall be repealed on July 1, 2019; provided that section 46-15.1, Hawaii Revised Statutes, shall be reenacted pursuant to section 3 of Act 141, Session Laws of Hawaii 2009, and section ~~[H]~~ 23 of Act 96, Session Laws of Hawaii 2014.”

SECTION 51. Act 232, Session Laws of Hawaii 2013, is amended by amending section 6 to read as follows:

“SECTION 6. This Act shall take effect upon its approval~~[-]~~; provided that the amendments made to section 334-59(a), Hawaii Revised Statutes, by this Act shall not be repealed when that section is reenacted on July 1, 2020, pursuant to section 24 of Act 221, Session Laws of Hawaii 2013.”

SECTION 52. Act 55, Session Laws of Hawaii 2014, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect upon its approval~~[-]~~; provided that the amendments made to section 205-4.5(a), Hawaii Revised Statutes, by this Act shall not be repealed when that section is reenacted on June 30, 2019, pursuant to section 3 of Act 52, Session Laws of Hawaii 2014.”

SECTION 53. Act 111, Session Laws of Hawaii 2015, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect on July 1, 2015~~[-]~~; provided that this Act, and shall be repealed on July 1, 2020~~[-]~~; provided that section 302D-34, Hawaii Revised Statutes, shall be reenacted in the form in which it read on June 30, 2015.”

SECTION 54. Act 114, Session Laws of Hawaii 2015, is amended by amending section 14 to read as follows:

“SECTION 14. This Act shall take effect upon its approval[-]; provided that the amendments made to section 302D-34, Hawaii Revised Statutes, by this Act shall not be repealed when that section is reenacted on July 1, 2020, pursuant to section 5 of Act 111, Session Laws of Hawaii 2015, as amended.”

SECTION 55. Act 235, Session Laws of Hawaii 2015, is amended by amending section 6 to read as follows:

“SECTION 6. Notwithstanding section 432D-23, Hawaii Revised Statutes, the coverage and benefit for autism to be provided by a health maintenance organization under section [4] 5 of this Act shall apply to all policies, contracts, plans, or agreements issued or renewed in this State by a health maintenance organization after January 1, 2016.”

SECTION 56. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 57. This Act shall take effect upon its approval; provided that section 17 of this Act shall take effect on July 1, 2016.

(Approved June 6, 2016.)

**Note**

1. Comma should not be underscored.

**ACT 56**

S.B. NO. 2121

A Bill for an Act Relating to Public Agency Meetings and Records.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 221, Session Laws of Hawaii 2014, is amended by amending section 4 to read as follows:

~~“SECTION 4. This Act shall take effect upon its approval; provided that on June 30, 2016, section 2 of this Act shall be repealed and section 92-3.1, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act].”~~

SECTION 2. Section 92-3.1, Hawaii Revised Statutes, is amended to read as follows:

**“§92-3.1 Limited meetings.** (a) If a board determines that it is necessary to meet at a location that is dangerous to health or safety, or if a board determines that it is necessary to conduct an on-site inspection of a location that is related to the board’s business at which public attendance is not practicable, and the director of the office of information practices concurs, the board may hold a limited meeting at that location that shall not be open to the public; provided that at a regular meeting of the board prior to the limited meeting:



- (1) The board determines, after sufficient public deliberation, that it is necessary to hold the limited meeting and specifies that the location is dangerous to health or safety or that the on-site inspection is necessary and public attendance is impracticable;
  - (2) Two-thirds of all members to which the board is entitled vote to adopt the determinations required by paragraph (1); and
  - (3) Notice of the limited meeting is provided in accordance with section 92-7.
- (b) A county council may hold a limited meeting that is open to the public, as the guest of a board or community group holding its own meeting, and the council shall not be required to have a quorum of members in attendance or accept oral testimony; provided that:
- (1) Notice of the limited meeting shall be provided in accordance with section 92-7, shall indicate the board or community group whose meeting the council is attending, and shall not be required to include an agenda;
  - (2) If the board or community group whose meeting the council is attending is subject to part I, chapter 92, then that board or community group shall comply with the notice, agenda, testimony, minutes, and other requirements of part I, chapter 92;
  - (3) No more than one limited meeting per month shall be held by a county council for any one board or community group;
  - (4) No limited meetings shall be held outside the State; and
  - (5) Limited meetings shall not be used to circumvent the purpose of part I, chapter 92.
- (c) At all limited meetings, the board shall:
- (1) Videotape the meeting, unless the requirement is waived by the director of the office of information practices, and comply with all requirements of section 92-9;
  - (2) Make the videotape available at the next regular meeting; and
  - (3) Make no decisions at the meeting.
- (d) Each county council shall submit an annual report to the legislature no later than twenty days prior to the convening of each regular session on the effectiveness and application of limited meeting procedures provided in subsection (b), including any recommendations or proposed legislation."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on June 29, 2016.  
(Approved June 6, 2016.)

**ACT 57**

H.B. NO. 2362

A Bill for an Act Relating to the Hawaii Workforce Development Council.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the federal Workforce Innovation and Opportunity Act supersedes the federal Workforce Investment Act and sets forth different council composition requirements, different state workforce development system plan specifications, and different council functions than the Workforce Investment Act. Chapter 202, Hawaii Revised Statutes, established

the workforce development council to fulfill the functions of the state workforce development board for purposes of the federal Workforce Investment Act of 1998, Public Law No. 105-220.

The purpose of this Act is to conform chapter 202, Hawaii Revised Statutes, to the federal Workforce Innovation and Opportunity Act of 2014, Public Law No. 113-128.

SECTION 2. Section 202-1, Hawaii Revised Statutes, is amended to read as follows:

**“§202-1 Council; appointment; tenure.** The advisory commission on employment and human resources is hereby constituted as the workforce development council. The council shall also fulfill the functions of the state workforce ~~[investment] development~~ board for purposes of the federal ~~[Workforce Investment Act of 1998, Public Law No. 105-220.]~~ Workforce Innovation and Opportunity Act of 2014, P.L. No. 113-128.

Except for the ex officio members or their designees, the council members shall be appointed by the governor for four-year staggered terms as provided for in section 26-34. The governor shall appoint the chairperson of the council ~~[and the two mayors to the council. The council shall be composed of thirty-one members. The members shall be selected on the basis of their interest in and knowledge of workforce development programs in the State and how they can support economic development].~~ The council shall be ~~[composed of the following representatives of whom the majority shall be from the private sector:]~~ constituted as provided by P.L. 113-128 (29 U.S.C. 3111) of the following members:

- (1) The directors of labor and industrial relations, human services, and business, economic development, and tourism; the superintendent of education; and the president of the University of Hawaii or their designees, as ex officio~~[ ]~~~~[ ]~~ voting members;
- (2) The private ~~[business]~~ sector chairpersons of the four county workforce ~~[investment] development~~ boards, or their designees from the private ~~[business]~~ sector membership of their respective boards, as ex officio~~[ ]~~~~[ ]~~ voting members;
- (3) ~~[Twelve additional private sector]~~ Seventeen representatives from ~~[business;] the private sector, including nonprofit organizations and businesses in the State, appointed from individuals nominated by state business organizations and business trade associations;~~
- (4) ~~[One representative from a community-based native Hawaiian organization that operates workforce development programs;]~~ Eight representatives from labor organizations and workforce training organizations, two or more of whom shall be representatives of labor organizations who have been nominated by state labor federations, and one of whom shall be a labor representative from a community-based native Hawaiian organization that operates workforce development programs;
- ~~[(5)]~~ Two representatives from labor;
- ~~(6)]~~ (5) [Four members] A member of each house of the legislature, [two from each house] for two-year terms beginning in January of odd-numbered years, appointed by the appropriate presiding officer of each house, as ex officio~~[ ]~~~~[ ]~~ voting members;
- ~~[(7)]~~ (6) [Two] The four mayors or their designees, as ex officio~~[ ]~~~~[ ]~~ voting members; and
- ~~[(8)]~~ (7) The governor or the governor's designee.

[The] Council members shall serve without compensation but shall be [entitled to] reimbursed for travel expenses [when actually engaged in business relating to the work of the council.] necessary for the performance of their duties.

From the effective date of Act , Session Laws of Hawaii 2016, and until such time that the council has forty-one members, sixteen council members shall constitute a quorum to do business, and the concurrence of at least sixteen council members shall be necessary to make any action of the council valid.

All council members may continue to serve on the council until their respective successors have been appointed. A person appointed to fill a vacancy shall serve the remainder of the term of the person's predecessor."

SECTION 3. Section 202-2, Hawaii Revised Statutes, is amended to read as follows:

**"§202-2 Duties of council.** [The workforce development council shall:

- (1) ~~Prepare and update periodically a comprehensive state plan for workforce development with strategic goals and measurable outcomes. The comprehensive state plan shall include:~~
  - (A) ~~Strategic goals of workforce development programs, including the identification of the desired number of highly skilled workers in the workforce, the number of placements of individuals into higher skilled jobs, the identification of high demand areas for job growth, the need for skilled workers in the next five and ten years, and the time frame for training and development;~~
  - (B) ~~Methods to educate the private sector about state, federal, and private financial assistance available for workforce development;~~
  - (C) ~~Methods to facilitate access to workforce development resources, including the reduction of regulatory burdens for employers and employees;~~
  - (D) ~~The creation and improvement of educational opportunities for individuals to learn and develop new skills, including mentoring, project-based learning, and internships;~~
  - (E) ~~Methods to facilitate the department of education's development of curriculum in the public schools to prepare students for employment in the private sector;~~
  - (F) ~~Recommendations to change and improve existing state programs, including the elimination of ineffective programs and the creation of new programs to improve workforce development;~~
  - (G) ~~The identification of resources required, obstacles to overcome, and best practice models to implement the comprehensive state strategic plan; and~~
  - (H) ~~A detailed budget for the comprehensive state plan with a justification for each expenditure;~~
- (2) ~~Review and assess the coordination between the State's workforce development programs, including programs of the federal government operating in the State, and placements in higher skilled jobs to expand economic development and diversification; and consider:~~
  - (A) ~~The State's employment and training requirements and resources;~~
  - (B) ~~Practices of employers and unions that impede or facilitate the mobility of workers; and~~

- (C) ~~The special problems of untrained and inexperienced youth, immigrants, persons with disabilities, welfare clients, single parents, disadvantaged minorities, and other groups facing barriers in the labor force;~~
- (3) ~~Serve as an information clearinghouse for all workforce development programs in the State, including workforce training and education programs;~~
- (4) ~~Analyze and interpret workforce information, particularly changes which are likely to occur during the next ten years; the specific industries, occupations, and geographic areas which are most likely to be involved; and the social and economic effects of these developments on the State's economy, labor force, communities, families, social structure, and human values;~~
- (5) ~~Define those areas of unmet workforce and economic development needs and describe how private and public agencies can coordinate their efforts and collaborate with each other to address those needs;~~
- (6) ~~Recommend to the governor and the legislature, state policies and funding priorities based on local community input that it believes should be adopted by the state government in meeting its workforce development responsibilities to:~~
  - (A) ~~Establish a workforce development system in the State in which resources are pooled and programs are coordinated and streamlined;~~
  - (B) ~~Establish reporting requirements for job placement results by category of occupations in high demand and high growth areas;~~
  - (C) ~~Encourage a program of useful research into the State's workforce requirements, development, and utilization; and~~
  - (D) ~~Support recommended workforce policies that promote economic development, diversification, and well-being of the people in this State;~~
- ~~provided that the duties and responsibilities of the workforce development council shall not impinge on the constitutional and statutory authority of the board of regents and the board of education, and the statutory authority of the state board for career and technical education;~~
- (7) ~~Create public awareness and understanding of the State's workforce development plans, policies, programs, and activities, and promoting them as economic investments;~~
- (8) ~~Submit annual reports of its activities and recommendations to the governor and the legislature, and post the annual reports electronically on the Internet no later than twenty days before the convening of each regular session. Annual reports shall include:~~
  - (A) ~~The status of the comprehensive state plan for workforce development; and~~
  - (B) ~~Information regarding the workforce development programs offered throughout the State, the number of individuals placed in high demand or high growth employment through workforce development programs by departments, the type or category of employment garnered, and allocations of state, federal, and other funding to achieve placements into higher-skilled jobs;~~

- (9) Evaluate the state workforce development plan in terms of how its purposes, goals, and objectives have been carried out throughout the State;
- (10) Provide technical assistance to local workforce development boards and other similar organizations;
- (11) Carry out required functions and duties related to workforce development of any advisory body required or made optional by federal legislation, including the Job Training Partnership Act of 1982, as amended, and the Wagner-Peyser Act of 1933, as amended;
- (12) In accordance with the federal Workforce Investment Act of 1998, Public Law 105-220, assist the governor in the following functions:
  - (A) The development of the State's plan for the use of federal workforce investment funds, which is required under Public Law 105-220;
  - (B) The development and continuous improvement of the statewide and local workforce investment systems described in subtitle B of Public Law 105-220, and the one stop delivery systems described in section 134(e) of Public Law 105-220, including:
    - (i) The development of linkages referred to in Public Law 105-220, to assure coordination and non-duplication among the programs and activities in section 121(b) of Public Law 105-220; and
    - (ii) The review of plans prepared by local workforce investment boards for the use of federal workforce investment funds which is required under Public Law 105-220;
  - (C) Commenting at least once annually on the measures taken pursuant to section 122(e)(16) of the Carl D. Perkins Vocational and Technical Education Amendments of 1998, Public Law 105-332;
  - (D) The designation of local areas as required in section 116 of Public Law 105-220;
  - (E) The development of allocation formulas for the distribution of funds for adult employment and training activities and youth activities to local areas as permitted under sections 128(b)(3)(B)(i) and 133(b)(3)(B)(i) of Public Law 105-220;
  - (F) The development and continuous improvement of comprehensive state performance measures, including state-adjusted levels of performance, to assess the effectiveness of the workforce investment activities in the State as required under section 136(b)(1) of Public Law 105-220;
  - (G) The preparation of the annual report to the United States Secretary of Labor described in section 136(d)(1) of Public Law 105-220;
  - (H) The development of the statewide employment statistics system described in section 15(e) of the Wagner-Peyser Act; and
  - (I) The development of an application for an incentive grant under section 503 of Public Law 105-220; and
- (13) Act as the designated state entity to conduct activities relating to occupational and employment information for vocational and technical education programs in compliance with section 118 of the Carl D. Perkins Vocational and Technical Education Amendments of 1998, Public Law 105-332.]

In accordance with P.L. 113-128 (29 U.S.C. 3111), the workforce development council shall assist the governor in:

- (1) The development, implementation, and modification of the state plan consistent with P.L. 113-128 (29 U.S.C. 3112);
- (2) The review of statewide policies, statewide programs, and recommendations on actions that should be taken by the State to align workforce development programs in a manner that supports a comprehensive and streamlined workforce development system in the State, including consideration of programs and activities of one-stop partners that are not core programs;
- (3) The development and continuous improvement of the workforce development system in the State;
- (4) The development and updating of comprehensive state performance accountability measures, including state adjusted levels of performance, to assess the effectiveness of the core programs in the State as required under P.L. 113-128 (29 U.S.C. 3141(b));
- (5) The identification and dissemination of information on best practices for the effective operation of one-stop centers, and the development of effective local boards and effective training programs;
- (6) The development and review of statewide policies affecting the coordinated provision of services through the State's one-stop delivery system;
- (7) The development of strategies for technological improvements to facilitate access to, and improve the quality of, services and activities provided through the one-stop delivery system;
- (8) The development of strategies for aligning technology and data systems across one-stop partner programs to enhance service delivery and improve efficiencies in reporting on performance accountability measures, including the design and implementation of common intake, data collection, case management information, and performance accountability measurement and reporting processes, and the incorporation of local input into such design and implementation, to improve coordination of services across one-stop partner programs;
- (9) The development of allocation formulas for the distribution of funds for employment and training activities for adults, and youth workforce investment activities, to local areas as permitted under P.L. 113-128 (29 U.S.C. 3163(b)(3), 3173(b)(3));
- (10) The preparation of annual reports as described in P.L. 113-128 (29 U.S.C. 3141(d));
- (11) The development of the statewide workforce and labor market information system described in the Wagner-Peyser Act (29 U.S.C. 491-2(e));
- (12) The development of such other policies as may promote statewide objectives for, and enhance the performance of, the workforce development system;
- (13) Creating public awareness and understanding of the State's workforce development plans, policies, programs, and activities, and promoting the plans, policies, programs, and activities as economic investments;
- (14) Submitting annual reports of the council's activities and recommendations to the governor and the legislature, and posting the annual reports electronically on the council's website no later than twenty

days before the convening of each regular session. Annual reports shall include:

- (A) The status of the comprehensive state plan for workforce development; and
- (B) Information regarding the workforce development programs offered throughout the State, the number of individuals placed in high-demand or high-growth employment through workforce development programs by departments, the type or category of employment garnered, and allocations of state, federal, and other funding to achieve placements into higher-skilled jobs;
- (15) Evaluating the state workforce development plan in terms of how its purposes, goals, and objectives have been carried out throughout the State;
- (16) Providing technical assistance to local workforce development boards and other similar organizations;
- (17) Carrying out required functions and duties related to workforce development of any advisory body required or made optional by federal legislation;
- (18) The review and certification of local workforce boards and plans prepared by local workforce boards for the use of federal workforce development funds as provided in P.L. 113-128 (29 U.S.C. 3122(b)-(c)); and
- (19) Commenting on the measures taken pursuant to section 122(c)(17) of the Carl D. Perkins Career and Technical Education Act of 2006, P.L. 109-270."

SECTION 4. Section 202-4, Hawaii Revised Statutes, is amended to read as follows:

**"§202-4 Duties of chairperson and executive director.** The chairperson of the workforce development council or the executive director, at the direction of the council shall:

- (1) Serve as consultant to the governor on issues relating to workforce development and its relation to economic development and diversification;
- (2) Assist in coordinating the programs of all agencies dealing with issues of concern to the council;
- (3) Arrange for statewide studies of the issues referred to in this chapter;
- (4) Secure data and information from agencies concerned with the issues referred to in this chapter;
- (5) Arrange for the exchange of information, plans, and programs between public and private groups interested in the issues referred to in this chapter;
- (6) Prepare articles, reports, and bulletins for the use of the council, concerned agencies, and for general publication;
- (7) Keep and maintain records and reports and ~~[conduct]~~ handle correspondence relative to the work of the council; ~~[and]~~
- (8) Develop recommendations and plans for action consistent with the purpose of this chapter~~[-]; and~~
- (9) Assist in carrying out the duties described in section 202-2."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

## SECTION 6. This Act shall take effect upon its approval.

(Approved June 6, 2016.)

## ACT 58

S.B. NO. 2807

## A Bill for an Act Relating to Enterprise Technology Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. In 2009, the legislative auditor reported that the State's management of information technology was weak and ineffective, requiring clearly defined roles, duties, and responsibilities. The report noted that, without an effective chief information officer, the State cannot ensure that its information technology investments are "cost effective, optimally utilized, adequately planned for future growth, or have the operational flexibility to easily adapt to changing requirements."

The purpose of this Act is to:

- (1) Clearly establish the chief information officer as the State's information technology leader;
- (2) Delete statutory references to the information and communication services division of the department of accounting and general services; and
- (3) Consolidate the office of information management and technology and the information and communication services division of the department of accounting and general services, including all related information technology functions, in the office of enterprise technology services under the direction of the chief information officer.

SECTION 2. Section 26-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The department shall:

- (1) Preaudit and conduct after-the-fact audits of the financial accounts of all state departments to determine the legality of expenditures and the accuracy of accounts;
- (2) Report to the governor and to each regular session of the legislature as to the finances of each department of the State;
- (3) Administer the state risk management program;
- (4) Establish and manage motor pools;
- (5) Manage the preservation and disposal of all records of the State;
- (6) Undertake the program of centralized engineering and office leasing services, including operation and maintenance and lease buy-back processing pursuant to subsection (d) of public buildings, for departments of the State;
- (7) Undertake the functions of the state surveyor;
- (8) Establish accounting and internal control systems;
- (9) [Provide] Under the direction of the chief information officer, provide centralized computer information management and processing services~~], coordination in the use of all information processing equipment, software, facilities, and services in the executive branch of the State, and consultation and support services in the use of information processing and management technologies to improve the efficiency, effectiveness, and productivity of state government programs];~~



- (10) Establish~~[-coordinate, and manage]~~ a program to provide a means for public access to public information and develop ~~[and operate]~~ an information network ~~[in conjunction with its overall plans for establishing a communication backbone]~~ for state government; and
- (11) Assume administrative responsibility for the office of information practices.”

SECTION 3. Section 27-43, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b) to read as follows:

**“§27-43 ~~[Information technology;]~~ Office of enterprise technology services; chief information officer; information technology steering committee; establishment; responsibilities.** (a) There is established within the department of accounting and general services the office of enterprise technology services, which shall be headed by a full-time chief information officer to organize, manage, and oversee statewide information technology governance~~[-including supervision and oversight of the information and communication services division of the department of accounting and general services]~~. The chief information officer shall be appointed by the governor as provided in section 26-34. The chief information officer shall report directly to the governor and, in conjunction with the information technology steering committee, shall:

- (1) Develop, implement, and manage statewide information technology governance;
- (2) Develop, implement, and manage the state information technology strategic plans;
- (3) Develop and implement statewide technology standards;
- (4) Work with each executive branch department and agency to develop and maintain its respective multi-year information technology strategic and tactical plans and roadmaps that are part of the State’s overall information technology strategic plans, roadmaps, and directions;
- (5) Coordinate each executive branch department and agency’s information technology budget request, forecast, and procurement purchase to ensure compliance with the department or agency’s strategic plan and roadmap and with the office of enterprise technology services’ information technology governance processes and enterprise architecture policies and standards, including policies and standards for systems, services, hardware, software, and security management;
- [(4)] (6) Report annually to the governor and the legislature on the status and implementation of the state information technology strategic plan;
- [(5)] (7) Perform other necessary or desirable functions to facilitate the intent of this section; ~~[and]~~
- [(6)] (8) Employ persons exempt from chapters 76 and 89~~[-];~~
- (9) Provide centralized computer information management and processing services, coordination in the use of all information processing equipment, software, facilities, and services in the executive branch of the State, and consultation and support services in the use of information processing and management technologies to improve the efficiency, effectiveness, and productivity of state government programs;
- (10) Establish, coordinate, and manage a program to provide a means for public access to public information and develop and operate an

information network in conjunction with overall plans for establishing a communication backbone for state government; and

- (11) Adopt rules, pursuant to chapter 91, necessary for the purposes of this part.

(b) There is established an information technology steering committee to assist the chief information officer in developing the State's information technology standards and policies, including but not limited to:

- (1) Assisting the chief information officer in developing and implementing the state information technology strategic plans;
- (2) Assessing executive branch departments' progress in meeting the objectives defined in the state information technology strategic plans and identifying best practices for shared or consolidated services;
- (3) Ensuring technology projects are selected based on their potential impact and risk to the State, as well as their strategic value;
- (4) Ensuring that executive branch departments maintain sufficient tools to assess the value and benefits of technology initiatives;
- (5) Assisting the chief information officer in developing state information technology standards and policies; and
- (6) Clarifying the roles, responsibilities, and authority of the ~~[information and communication services division]~~ office of enterprise technology services, specifically as it relates to its statewide duties.

The information technology steering committee shall consist of eleven members, with four members to be appointed by the senate president, four members to be appointed by the speaker of the house of representatives, one member to be appointed by the chief justice, and one member to be appointed by the governor, and shall include representatives from executive branch departments, including large user agencies such as the department of education and the University of Hawaii; the judiciary; the legislature; and private individuals. The chief information officer shall serve as the chair of the committee and shall ensure that the committee is evaluated periodically."

SECTION 4. Section 27G-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The committee shall consist of not more than fifteen voting~~[[.]]~~ ex officio members, or their designated representatives, as follows:

- (1) The comptroller;
- ~~[(2) The administrator of the information and communication services division of the department of accounting and general services;~~
- ~~[(3)]~~ (2) The administrator of the state procurement office;
- ~~[(4)]~~ (3) The director of the office of information practices;
- ~~[(5)]~~ (4) The directors of not more than three government agencies using or planning to use the services of the portal manager;
- ~~[(6)]~~ (5) The administrative director of the courts;
- ~~[(7)]~~ (6) A representative of the Hawaii state senate appointed by the president of the senate;
- ~~[(8)]~~ (7) A representative of the Hawaii state house of representatives appointed by the speaker of the house of representatives;
- ~~[(9)]~~ (8) The chief information officers of the four counties; and
- ~~[(10)]~~ (9) The chief information officer."

SECTION 5. Section 27G-6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§27G-6]]~~ **Access Hawaii committee special fund.** There is established in the state treasury the access Hawaii committee special fund, into which shall be deposited fees collected by the ~~[information and communication services division within the department of accounting and general services]~~ office of enterprise technology services for the purpose of supporting the access Hawaii committee. The chief information officer may appoint a portal program manager exempt from chapter 76, which may be funded by the access Hawaii committee special fund. Expenditures from the access Hawaii committee special fund shall be approved by the access Hawaii committee; provided that information on income and expenditures shall be subject to legislative review and oversight in each budget submittal from the department of accounting and general services.”

SECTION 6. Section 435H-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The governor shall designate one representative to serve as the State’s official representative on the board from among the following: the director of commerce and consumer affairs, the director of health, the director of human services, the director of labor and industrial relations, a representative from the office of healthcare transformation, or a representative from the ~~[office of information management and technology.]~~ office of enterprise technology services.

The governor’s designated representative shall be an ex officio, voting member of the board. The remaining state officials shall be ex officio, nonvoting members of the board. The governor shall notify the chair of the board regarding the selection of the designated voting and nonvoting state members of the board.

The director of commerce and consumer affairs, the director of health, the director of human services, and the director of labor and industrial relations may select a designee for a specified meeting or meetings. The selection of the designee shall be submitted in writing to the board of directors prior to or at the meeting in which the designee will serve.”

SECTION 7. Section 487N-5, Hawaii Revised Statutes is amended as follows:

1. By amending subsection (a) to read:

“(a) There is established an information privacy and security council within the department of accounting and general services for administrative purposes only. Members of the council shall be appointed no later than September 1, 2008, by the governor without regard to section 26-34 and shall be composed of the following representatives:

- (1) Executive agencies that maintain extensive personal information in the conduct of their duties, including the department of commerce and consumer affairs, the department of education, the department of health, the department of human resources development, the department of human services, and the University of Hawaii, to be selected by the governor;
- (2) The legislature, to be selected by the president of the senate and the speaker of the house of representatives;
- (3) The judiciary, to be selected by the ~~[administrator of the courts;]~~ chief justice of the Hawaii supreme court; and
- (4) The four counties, to be selected by the mayor of each county; provided that the mayor of each county shall determine the extent to which the county may or may not participate.

The chief information officer or the chief information officer's designee shall serve as chair of the council."

2. By amending subsection (e) to read:

"(e) The ~~comptroller~~ chief information officer may establish support positions for the ~~[information and communication services division,]~~ office of enterprise technology services, including but not limited to ~~[legal support,]~~ information technology, human resources and personnel, records management, and administrative support."

SECTION 8. All rights, powers, functions, and duties of the office of information management and technology and the information and communication services division of the department of accounting and general services relating to information technology are consolidated under the office of enterprise technology services. The chief information officer shall amend or repeal rules under chapter 91, Hawaii Revised Statutes, as necessary.

SECTION 9. All rules, policies, procedures, guidelines, and other materials adopted or developed by the office of information management and technology or the information and communication services division of the department of accounting and general services to implement provisions of the Hawaii Revised Statutes which are reenacted or made applicable to the office of enterprise technology services by this Act shall remain in full force and effect until amended or repealed by chief information officer pursuant to chapter 91, Hawaii Revised Statutes. In the interim, every reference to the department of accounting and general services or the information and communication services division in those rules, policies, procedures, guidelines, and other material is deemed to refer to the office of enterprise technology services, as appropriate.

SECTION 10. All leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the office of information management and technology or the information and communication services division of the department of accounting and general services pursuant to the provisions of the Hawaii Revised Statutes, which are reenacted or made applicable to the office of enterprise technology services by this Act, shall remain in full force and effect. Effective July 2, 2016, every reference to the office of information management and technology and the information and communication services division therein shall be construed as a reference to the office of enterprise technology services as appropriate.

SECTION 11. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the office of information management and technology or information and communication services division of the department of accounting and general services relating to the functions transferred to the office of enterprise technology services shall be transferred with the functions to which they relate.

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 13. This Act shall take effect on July 2, 2016.

(Approved June 6, 2016.)

A Bill for an Act Relating to the Nursing Facility Sustainability Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 156, Session Laws of Hawaii 2012, as amended by section 2 of Act 142, Session Laws of Hawaii 2013, as amended by section 1 of Act 124, Session Laws of Hawaii 2014, as amended by section 1 of Act 69, Session Laws of Hawaii 2015, is amended by amending section 2 as follows:

1. By amending subsection (c) of § -4, Hawaii Revised Statutes, to read:

“(c) Revenue from the nursing facility sustainability fee shall be used exclusively as follows:

- (1) No less than eighty-eight per cent of the revenue from the nursing facility sustainability fee shall be used to match federal medicaid funds, with the combined total to be used to enhance capitated rates to medicaid managed care health plans for the purpose of increasing medicaid payments to private nursing facilities;
- (2) Twelve per cent of the revenue from the nursing facility sustainability fee may be used by the department for other departmental purposes; and
- (3) All moneys remaining in the special fund on December 30, [2016,] 2017, shall be distributed to nursing facilities within thirty days in the same proportions as received from the nursing facilities.”

2. By amending § -10, Hawaii Revised Statutes, to read:

“§ -10 **Enhanced rates to medicaid managed care health plans.** In accordance with title 42 Code of Federal Regulations section 438, the department shall use revenues from the nursing facility sustainability fee and federal matching funds to enhance the capitated rates paid to medicaid managed care health plans for the state fiscal year [2015-2016,] 2016-2017, consistent with the following objectives:

- (1) The rate enhancement shall be used exclusively for increasing reimbursements to private nursing facilities to support the availability of services and to ensure access to care to the medicaid managed care health plan enrollees;
- (2) The rate enhancement shall be made part of the monthly capitated rates by the department to medicaid managed care health plans, which shall provide documentation to the department and the nursing facility trade [associations] association located in Hawaii certifying that the revenues received under paragraph (1) are used in accordance with this section;
- (3) The rate enhancement shall be actuarially sound and approved by the federal government for federal fund participation; and
- (4) The department shall modify the fee-for-service reimbursement rates of the nursing facilities to recognize the medicaid portion of the nursing facility sustainability fee as an additional cost of serving medicaid patients, and to provide a uniform percentage increase in pre-existing facility-specific rates.”

3. By amending subsection (a) of § -13, Hawaii Revised Statutes, to read:

“(a) Collection of the nursing facility sustainability fee under section -5 shall be discontinued if:

- (1) The waiver in section -7 or the enhanced capitation rates in section -10 have not been approved by the Centers for Medicare and Medicaid Services;
- (2) The department reduces funding for nursing facility services below the state appropriation in effect on June 30, ~~[2015;]~~ 2016;
- (3) The department or any other state agency uses the money in the special fund for any use other than the uses permitted pursuant to this chapter; or
- (4) Federal financial participation to match the nursing facility sustainability fee becomes unavailable under federal law. In such case, the department shall terminate the collection of the fee beginning on the effective date of the federal statutory, regulatory, or interpretive change."

SECTION 2. Act 156, Session Laws of Hawaii 2012, as amended by section 3 of Act 142, Session Laws of Hawaii 2013, as amended by section 2 of Act 124, Session Laws of Hawaii 2014, as amended by section 2 of Act 69, Session Laws of Hawaii 2015, is amended by amending section 5 to read as follows:

"SECTION 5. This Act shall take effect on July 1, 2012, and shall be repealed on June 30, ~~[2016;]~~ 2017; provided that section -4, Hawaii Revised Statutes, established by section 2 of this Act, and the amendment made to section 36-30(a), Hawaii Revised Statutes, in section 3 of this Act, shall be repealed on December 31, ~~[2016;]~~ 2017; and provided further that the amendment made to section 36-30(a), Hawaii Revised Statutes, in section 3 of this Act shall not be repealed when section 36-30, Hawaii Revised Statutes, is reenacted on June 30, 2015, pursuant to section 34 of Act 79, Session Laws of Hawaii 2009."

SECTION 3. Act 124, Session Laws of Hawaii 2014, as amended by Act 69, Session Laws of Hawaii 2015, is amended by amending section 7 to read as follows:

"SECTION 7. This Act shall take effect on June 29, 2014; provided that:

- (1) Section 5 shall take effect on July 1, 2014;
- (2) The amendments made to sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, in sections 3 and 4 of this Act shall not be repealed when sections 36-27 and 36-30, Hawaii Revised Statutes, are reenacted on June 30, 2015, pursuant to section 34 of Act 79, Session Laws of Hawaii 2009; and
- (3) The amendments made to sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, in sections 3 and 4 of this Act shall be repealed on December 31, ~~[2016;]~~ 2017."

SECTION 4. There is appropriated out of the nursing facility sustainability program special fund the sum of \$14,000,000 or so much thereof as may be necessary for fiscal year 2016-2017 for uses consistent with the nursing facility sustainability program special fund.

The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2016; provided that sections 1 and 2 shall take effect on June 29, 2016.

(Approved June 6, 2016.)

ACT 60

S.B. NO. 2330

A Bill for an Act Relating to the Hospital Sustainability Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that hospitals in the State face major financial challenges in providing quality health care for Hawaii residents. These challenges are largely the result of inadequate payments from the medicaid program that do not cover the actual costs of care. Medicaid is jointly financed by the federal and state government but, by statutory formula, the federal government only pays between fifty per cent and seventy-four per cent of medicaid costs incurred by states for care delivered to their medicaid beneficiaries. Federal assistance percentages vary by state, with states that have lower per capita incomes receiving higher federal matching rates. Under federal rules, the state share must be public funds that are not federal funds. The legislature finds that federal funding to help sustain Hawaii's hospitals financially may be accessed through a provider fee.

The legislature further finds that provider fees exist in forty-nine states and the District of Columbia as a means of drawing down federal funds to sustain their medicaid programs due to rising state budget deficits, increasing health care costs, and expanding medicaid enrollment. Provider fees, which are collected from specific categories of health care providers that agree to the fee, may be imposed on nineteen different classes of health care services, including inpatient and outpatient hospital and nursing facility services.

The legislature additionally finds that, in Hawaii, a provider fee on hospitals has resulted in an increase of medicaid payments at a time when there are constraints on the State's budget. The additional federal funds obtained via the fee program authorized by the hospital sustainability program has helped to reduce the amount of losses incurred by hospitals and slow the erosion of access to care for medicaid recipients. The purpose of this Act is to preserve access to health care for medicaid recipients by extending the hospital sustainability fee program.

SECTION 2. Act 217, Session Laws of Hawaii 2012, section 2, as amended by section 1 of Act 141, Session Laws of Hawaii 2013, as amended by section 1 of Act 123, Session Laws of Hawaii 2014, as amended by section 1 of Act 70, Session Laws of Hawaii 2015, is amended as follows:

1. By amending the definitions of "net patient service revenue" and "private hospital" in § -3, Hawaii Revised Statutes, to read:

"Net patient service revenue" means gross revenue from inpatient and outpatient care provided to hospital patients converted to net patient revenue utilizing data from Worksheets G-2 and G-3 of each hospital's medicare cost report for fiscal year [2012-2013.] 2013-2014. If the hospital is new or did not file a fiscal year medicare cost report, the department shall obtain the hospital's net patient service revenue from the most recent period available.

"Private hospital" means those non-public hospitals named in attachment A of the medicaid section 1115 demonstration waiver that were in operation in calendar year [2014] 2015 and are currently operating[.] or any hospitals

not named in attachment A of the medicaid section 1115 demonstration waiver that became private hospitals in calendar year 2016 and are currently operating."

2. By amending subsection (c) of § -4, Hawaii Revised Statutes, to read:

"(c) Moneys in the hospital sustainability program special fund shall be used exclusively as follows:

(1) ~~[To make direct supplemental uncompensated care and upper payment limit payments to private hospitals pursuant to the terms of the section 1115 waiver. At least eighty-eight per cent of the moneys in the special fund shall be used for this purpose, provided that in no instance shall a hospital receive supplemental payments that exceed its allowable uncompensated care costs;]~~ No less than eighty-eight per cent of the revenue from the hospital sustainability fee shall be used for one or more of the following:

(A) Match federal medicaid funds, with the combined total to be used to enhance capitated rates to medicaid managed care health plans for the sole purpose of increasing medicaid payments to private hospitals;

(B) Match federal medicaid funds for Hawaii's medicaid disproportionate share hospital allotment as authorized by current federal law for private hospitals;

(C) Match federal medicaid funds for a private hospital upper payment limit pool; or

(D) Match federal medicaid funds with the combined total to be used to enhance capitated rates to medicaid managed care health plans for the purpose of increasing medicaid payments to private hospitals through a quality incentive pool;

(2) Twelve per cent of the moneys in the hospital sustainability program special fund may be used by the department for other departmental purposes; and

(3) Any money remaining in the hospital sustainability program special fund six months after the repeal of this chapter, shall be distributed to hospitals within thirty days in the same proportions as received from the hospitals."

3. By amending § -5, Hawaii Revised Statutes, to read:

**"§ -5 Hospital sustainability fee.** (a) Effective July 1, 2012, or, if later, the effective date of any necessary federal approvals, the department shall charge and collect provider fees, to be known as the hospital sustainability fee, on inpatient and outpatient care services provided by private hospitals.

(b) The hospital sustainability fee shall be based on the net patient service revenue for inpatient services and outpatient services, respectively, of all hospitals that are subject to the hospital sustainability fee.

(c) The hospital sustainability fee for inpatient care services may differ from the fee for outpatient care services but the fees shall not in the aggregate exceed three per cent of net patient service revenue as derived from the hospital's medicare cost report ending during state fiscal year ~~[2012-2013-]~~ 2013-2014. The inpatient hospital sustainability fee shall ~~[be 1.892]~~ not exceed three per cent of net inpatient hospital service revenue. The outpatient hospital sustainability fee shall be three per cent of net outpatient hospital service revenue. Each fee shall be the same percentage for all affected hospitals, subject to subsection (d).

(d) The department shall exempt children's hospitals, federal hospitals, public hospitals, ~~[rehabilitation hospitals,]~~ and psychiatric hospitals~~[, and any hospital that was not in private operation during any part of calendar year~~



2014] from the hospital sustainability fees on inpatient services. In addition, the department shall exempt ~~hospitals with net outpatient revenue of less than \$50,000,000 per year (based on fiscal year 2012-2013 reports) and] children's hospitals, public hospitals, rehabilitation hospitals, psychiatric hospitals, and [any hospital that was not in private operation during any part of calendar year 2014] any hospitals with net outpatient revenues of less than \$57,000,000 per year based upon fiscal year 2013-2014 cost reports~~ from the hospital sustainability fee on outpatient care services.

(e) The department, with agreement by the hospital trade association located in Hawaii, may modify the structure of the hospital sustainability program if such modification is necessary to obtain federal waiver approval consistent with the requirements of 42 Code of Federal Regulations section 433.68(e)(2).

(f) Notwithstanding section -6, nothing shall require the department to exempt a facility from the hospital sustainability fee if it is not approved by the United States Department of Health and Human Services Centers for Medicare and Medicaid Services."

4. By amending § -6, Hawaii Revised Statutes, to read:

**"§ -6 Hospital sustainability fee assessments.** (a) Hospitals shall pay the hospital sustainability fee to the department in accordance with this chapter. The fee shall be divided and paid in ~~[four]~~ twelve equal installments on a ~~[quarterly]~~ monthly basis.

(b) The department shall collect, and each hospital shall pay, the hospital sustainability fee not later than the ~~[fifteenth]~~ thirtieth day after the end of each calendar ~~[quarter;]~~ month; provided that if required federal approvals have not been secured by the end of a calendar ~~[quarter]~~ month the fees for that ~~[quarter]~~ month shall be paid within ten days after notification to the hospitals that the required approvals have been received."

5. By amending § -10, Hawaii Revised Statutes, to read:

**"§ -10 Private hospital payments~~[-]~~ through enhanced rates to medicaid managed care health plans.** ~~[(a) The department shall use moneys solely from the hospital sustainability program special fund to make direct payments to private hospitals, pursuant to the terms of the section 1115 waiver, in an amount equal to \$88,000,000 to cover the uncompensated care costs incurred by private hospitals for serving medicaid and uninsured individuals during state fiscal year 2015-2016.~~

~~(b) The department shall use moneys solely from the hospital sustainability program special fund to make direct upper payment limit payments in an amount equal to \$3,975,442, pursuant to the terms of the section 1115 waiver, to level II trauma centers verified by the American College of Surgeons and designated by the department of health, including recognized specialty children's hospitals that do not pay both the inpatient and outpatient assessments.~~

~~(c) The department shall make quarterly payments to private hospitals to reimburse their uncompensated care costs within twenty days after the end of each calendar quarter; provided that payments shall not be due until at least fifteen days after receipt of the fees required by section -6. If the department fails to pay the full amount when due, there shall be added to the payment a penalty equal to prime plus two per cent of the payment that was not paid when due.~~

~~(d) Each eligible hospital's quarterly payment shall be equal to one-quarter of its prorated share of uncompensated care costs for the fiscal year in which payment is made, as derived from the uncompensated care costs reported by all private hospitals for fiscal year 2012-2013; provided that:~~

- (1) ~~Outpatient uncompensated care costs shall be reimbursed at one hundred per cent of reported uncompensated care costs; and~~
- (2) ~~Inpatient uncompensated care costs shall be reimbursed on a pro-rated share based on the remaining uncompensated care amounts available through the section 1115 waiver.~~
- (e) ~~Each eligible hospital's quarterly payment from the hospital sustainability program special fund shall be equal to one quarter of its share of upper payment limit payments for the fiscal year in which payment is made. Eligible hospitals shall receive their payments based on their medicaid utilization to ensure access to care for that beneficiary population.]~~ (a) The department shall use moneys solely from the hospital sustainability program special fund to fulfill the requirements of section -4(c).
- (b) In accordance with title 42 Code of Federal Regulations section 438, the department shall use revenues from the hospital sustainability fee and federal matching funds to enhance the capitated rates paid to medicaid managed care health plans for the state fiscal year 2016-2017, consistent with the following objectives:
- (1) The rate enhancement shall be used exclusively for increasing reimbursements to private hospitals to support the availability of services and to ensure access to care to the medicaid managed care health plan enrollees;
  - (2) The rate enhancement shall be made part of the monthly capitated rates by the department to medicaid managed care health plans, which shall provide documentation to the department and the hospital trade association located in Hawaii certifying that the revenues received under paragraph (1) are used in accordance with this section;
  - (3) The rate enhancement shall be actuarially sound and approved by the federal government for federal fund participation;
  - (4) The rate enhancements shall be retroactive to the effective date of this Act, or the effective date approved by the federal government, whichever is later. Retroactive rate enhancements shall be paid within thirty days of notification by the Centers for Medicare and Medicaid Services to the department for all necessary approvals; and
  - (5) Payments made by the medicaid managed care health plans shall be made within thirty business days upon receipt of monthly capitation rates from the department.
- (f) (c) If federal approval pursuant to section -7 is not received until after the end of any [quarter] month for which the hospital sustainability fee is applicable, the department shall make the initial [quarterly] monthly payments within five days after receipt of the hospital sustainability fee for the respective [quarter-] month.
- (g) (d) To the extent the hospital sustainability program is not effective for the entire year, the hospital sustainability fee, the state medicaid expenses and administrative fee, and the corresponding [uncompensated care] medicaid managed care health plan payments shall be based on the proportion of the fiscal year the program is in effect."

SECTION 3. Act 217, Session Laws of Hawaii 2012, section 5, as amended by section 2 of Act 141, Session Laws of Hawaii 2013, as amended by section 2 of Act 123, Session Laws of Hawaii 2014, as amended by section 2 of Act 70, Session Laws of Hawaii 2015, is amended to read as follows:

## ACT 61

“SECTION 5. This Act shall take effect on July 1, 2012, and shall be repealed on June 30, [2016;] 2017; provided that section -4, Hawaii Revised Statutes, in section 2 of this Act, and the amendment to section 36-30(a), Hawaii Revised Statutes, in section 3 of this Act, shall be repealed on December 31, [2016; provided further that the amendment to section 36-30(a), Hawaii Revised Statutes, in section 3 of this Act, shall not be repealed when section 36-30, Hawaii Revised Statutes, is reenacted on June 30, 2015, pursuant to section 34(3) of Act 79, Session Laws of Hawaii 2009.] 2017.”

SECTION 4. Act 123, Session Laws of Hawaii 2014, as amended by section 3 of Act 70, Session Laws of Hawaii 2015, is amended by amending section 7 to read as follows:

“SECTION 7. This Act shall take effect on June 29, 2014; provided that:

(1) Section 5 shall take effect on July 1, 2014; and

~~[(2) The amendments made to sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, in sections 3 and 4 of this Act shall not be repealed when sections 36-27 and 36-30, Hawaii Revised Statutes, are reenacted on June 30, 2015, pursuant to section 34 of Act 79, Session Laws of Hawaii 2009; and~~

~~(3)]~~ (2) The amendments made to sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, in sections 3 and 4 of this Act shall be repealed on December 31, [2016;] 2017.”

SECTION 5. There is appropriated out of the hospital sustainability program special fund the sum of \$65,000,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the purposes of the hospital sustainability program special fund.

The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on June 29, 2016; provided that section 5 of this Act shall take effect on July 1, 2016.

(Approved June 6, 2016.)

## ACT 61

H.B. NO. 2415

A Bill for an Act Relating to Non-General Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I

SECTION 1. The purpose of this Act is to repeal, reclassify, or abolish selected funds.

PART II

SECTION 2. The purpose of this part is to repeal the Kapolei recreational sports complex special fund as recommended by the auditor in auditor's report 14-01.

The legislature finds that the original purpose of the fund no longer exists, as the land originally identified for the Kapolei recreational sports complex was transferred to the University of Hawaii-West Oahu.

SECTION 3. Section 109-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There shall be within the department of accounting and general services for administrative purposes only, a stadium authority whose responsibility shall be to maintain, operate, and manage the stadium and facilities attached thereto ~~[and to provide for the maintenance, operation, management, and promotion of the Kapolei recreational sports complex]~~. The authority shall consist of nine members who shall be appointed by the governor in the manner prescribed by section 26-34. Each member of the authority shall have been a citizen of the United States and a resident of the State for at least five years next preceding the member's appointment. The president of the University of Hawaii and the superintendent of education shall be ex officio members of the authority but shall not vote."

SECTION 4. Section 109-2, Hawaii Revised Statutes, is amended to read as follows:

**"§109-2 Stadium authority; powers and duties.** The powers and duties of the stadium authority shall be as follows:

- (1) To maintain, operate, and manage the stadium and related facilities~~[-and to provide for the maintenance, operation, management, and promotion of the Kapolei recreational sports complex];~~
- (2) To prescribe and collect rents, fees, and charges for the use or enjoyment of the stadium or any of its facilities;
- (3) To make and execute contracts and other instruments necessary or convenient to exercise its powers under this chapter and subject to any limitations in this chapter, to exercise all powers necessary, incidental, or convenient to carry out and effectuate the purposes and provisions of this chapter~~[-including entering into contracts under chapter 102 or 103D for the management of the Kapolei recreational sports complex, to include but not be limited to the operation, maintenance, and promotion of the complex in a manner that is beneficial to both the State and the contractor. These contracts may contain revenue sharing incentives based on increased usage of the complex];~~
- (4) To adopt, amend, and repeal in accordance with chapter 91 rules it may deem necessary to effectuate this chapter and in connection with its projects, operations, and facilities;
- (5) To appoint a manager and a deputy manager who shall have ~~[such]~~ qualifications as the authority deems necessary and who shall hold their respective offices at the pleasure of the authority. The manager and deputy manager shall be exempt from the requirements of chapters 76 and 89. Effective July 1, 2005, the manager shall be paid a salary not to exceed eighty-seven per cent of the salary of the director of human resources development. Effective July 1, 2005,

- the deputy manager shall be paid a salary not to exceed eighty-five per cent of the manager's salary. The manager shall have full power to administer the affairs of the stadium and related facilities, ~~and to provide for a management contract for the Kapolei recreational sports complex,~~ subject to the direction and approval of the authority. The manager shall, subject to the approval of the authority, have power to appoint, suspend, and discharge a secretary who shall be exempt from the requirements of chapters 76 and 89, and ~~[such]~~ other employees, subordinates, and assistants as may be necessary for the proper conduct of the business of the authority. Except for persons hired on contract or otherwise as provided in section 109-3 and except for the manager, deputy manager, and secretary, all appointments, suspensions, or discharges shall be made in conformity with the applicable provisions of chapter 76; and
- (6) To plan, promote, and market the stadium~~[-its]~~ and related facilities~~[-and the Kapolei recreational sports complex].~~”

SECTION 5. Section 109-3, Hawaii Revised Statutes, is amended to read as follows:

**“§109-3 Stadium special fund.** There is created a special fund to be known as the stadium special fund into which funds collected by the authority shall be deposited~~[-provided that all funds received pursuant to this section shall be kept completely separate from the Kapolei recreational sports complex special fund. Moneys may not be transferred between the stadium special fund and the Kapolei recreational sports complex special fund].~~ The stadium special fund shall be applied, used, and disposed of for the payment of:

- (1) The expenses of the operation, maintenance, promotion, and management of; and
- (2) All or a portion of the cost of financing any capital improvement project for;

the stadium and related facilities; provided that all services required for the stadium and related facilities shall be performed by persons hired on contract or otherwise, without regard for chapter 76; provided further that the authority shall report to the legislature all receipts and expenditures of the stadium special fund account twenty days prior to the convening of each regular session.”

SECTION 6. Section 109-5, Hawaii Revised Statutes, is amended to read as follows:

**“§109-5 Security personnel, powers.** The person employed as the chief security officer by the authority shall have all of the powers of police officers, including the power of arrest; provided that ~~[such]~~ the powers shall remain in force and in effect only while the person is in the actual performance of the person's duties at the stadium ~~[or the Kapolei recreational sports complex].~~”

SECTION 7. Section 109-7, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

**“(b)** Any person violating any rule of the stadium authority regulating conduct on the stadium ~~[or Kapolei recreational sports complex]~~ premises shall be guilty of a petty misdemeanor punishable by a fine not exceeding \$1,000, or imprisonment not exceeding thirty days, or both.

**(c)** Any person violating any rule of the stadium authority regulating parking or traffic on the stadium ~~[or Kapolei recreational sports complex]~~ prem-

ises shall have committed a traffic infraction as set forth in chapter 291D, the adjudication of which shall be subject to the provisions contained therein.”

SECTION 8. Section 109-9, Hawaii Revised Statutes, is repealed.

SECTION 9. On July 1, 2016, all unencumbered balances remaining in the Kapolei recreational sports complex special fund repealed by section 8 of this Act shall lapse to the credit of the general fund.

### PART III

SECTION 10. The purpose of this part is to reclassify the prepaid airport use charge fund from a special fund to a trust fund as recommended by the auditor in auditor’s report 14-05.

The legislature finds that the fund does not meet the criteria of a special fund and should be classified as a trust fund because moneys deposited in the fund are the property of signatory airlines and may not be used for any purpose other than those set forth in the prepaid airport use charge fund agreement.

SECTION 11. The prepaid airport use charge fund, a special fund administratively established in 1977, is reclassified as a trust fund.

All balances in the fund shall remain as if no reclassification had occurred.

### PART IV

SECTION 12. The purpose of this part is to abolish the photo enforcement revolving fund.

The legislature finds that the fund does not meet the criteria of a revolving fund because it is inactive.

SECTION 13. The photo enforcement revolving fund is abolished and any unencumbered remaining balances shall be transferred to the general fund.

### PART V

SECTION 14. Statutory material to be repealed is bracketed and stricken.<sup>1</sup>

SECTION 15. This Act shall take effect on July 1, 2016.

(Approved June 6, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5. Act also contains underscored material.

## ACT 62

H.B. NO. 2037

A Bill for an Act Relating to the World Conservation Congress.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the International Union for Conservation of Nature World Conservation Congress meeting will take place in

## ACT 63

Hawaii from September 1 to 10, 2016, and offers a unique opportunity to highlight Hawaii's environmental and natural resources as a showcase for the United States to share with the world. This is the first time that the Congress will convene in the United States. The meeting will enhance natural resource conservation not only in Hawaii but throughout the world.

The legislature further finds that the International Union for Conservation of Nature is a leading authority on the environment and sustainable development. The World Conservation Congress consists of more than one thousand two hundred member organizations including over two hundred governments, nine hundred non-government organizations, and eighty-five member organizations in the United States. More than eight thousand delegates from over one hundred sixty countries are expected to attend the meeting in Hawaii.

The purpose of this Act is to appropriate funds to the department of land and natural resources for the purpose of hosting the 2016 International Union for Conservation of Nature World Conservation Congress.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,000,000 or so much thereof as may be necessary for fiscal year 2015-2016 for the purpose of hosting the 2016 International Union for Conservation of Nature World Conservation Congress meeting at the Hawaii Convention Center from September 1 to 10, 2016; provided that this appropriation shall not lapse at the end of the fiscal year 2015-2016; provided further that all moneys that are unencumbered as of June 30, 2017, shall lapse as of that date.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 2016.)

## ACT 63

H.B. NO. 2279

A Bill for an Act Making Appropriations for Claims Against the State, its Officers, or its Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I

SECTION 1. The following sums or so much thereof as may be necessary for fiscal year 2015-2016 are appropriated out of the general revenues of the State of Hawaii to the department of the attorney general for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, and entities, for claims against the State or its officers or employees for the overpayment of taxes, or for refunds, reimbursements, payments of judgments or settlements, or other liabilities, in the amounts set forth opposite their names:

**JUDGMENTS AGAINST THE STATE  
AND SETTLEMENTS OF CLAIMS:**
**AMOUNT****1. DEPARTMENT OF EDUCATION:**

Toguchi v. Matayoshi, et al.	\$ 82,500.00
Civil No. 13-00380 DKW-KSC, USDC	Settlement
Hawaii Gov't Empl. Assoc., et al. v.	\$ 100,000.00
State of Hawaii, et al.	
Civil No. 09-1-1430-06 SSM, First Circuit	Settlement
Waiakamilo Properties, LLC	\$ 58,286.00
	Settlement
Garner, et al. v. State of Hawaii, et al.	\$ 3,025,942.99
Civil No. 03-1-000305, First Circuit	
Klitternick, et al. v. Matayoshi, et al.	
Civil No. 05-1-00031, First Circuit	
Kawashima v. State of Hawaii, et al.	
Civil No. 06-1-0244-02, First Circuit	Settlement
Grimm, et al. v. Esibill, et al.	\$ 1,250,000.00
Civil No. 14-1-0452-02, First Circuit	Settlement
Valeho-Novikoff v. State of Hawaii, et al.	\$ 10,000.00
Civil No. 11-1-2616-10 VLC, First Circuit	Settlement
E.R.K., et al. v. Department of Education	\$ 100,000.00
Civil No. 10-00436 SOM-KSC, USDC	Order
<b>SUBTOTAL:</b>	<b>\$ 4,626,728.99</b>

**2. DEPARTMENT OF HAWAIIAN HOME LANDS:**

Darnell v. County of Hawaii, et al.	\$ 200,000.00
Civil No. 09-1-0146, Third Circuit	Settlement
Nelson, et al. v. Hawaiian Homes	\$ 11,942.96
Commission, et al.	
Civil No. 07-1-1663-08 JHC, First Circuit	Order
<b>SUBTOTAL:</b>	<b>\$ 211,942.96</b>

**3. DEPARTMENT OF HEALTH:**

Mahi v. Department of Health, et al.	\$ 20,000.00
Civil No. 13-1-0250, Fifth Circuit	Settlement
<b>SUBTOTAL:</b>	<b>\$ 20,000.00</b>

**4. DEPARTMENT OF LAND AND NATURAL RESOURCES:**

EPA Notice of Violation of Safe Drinking	\$ 50,000.00
Water Act to Dept. of Land and Nat. Res.	Settlement
Isele-DeVita, et al. v.	\$ 135,000.00
State of Hawaii, et al.	
Civil No. 13-1-548K, Third Circuit	Settlement
Andronaco v. City and County of	\$ 162,500.00
Honolulu, et al.	
Civil No. 15-1-1732-09, First Circuit	Settlement
<b>SUBTOTAL:</b>	<b>\$ 347,500.00</b>



## ACT 63

### 5. DEPARTMENT OF HUMAN SERVICES:

Booth v. Wong	\$ 165,527.60
Civil No. 10-00680, USDC	Judgment
SUBTOTAL:	\$ 165,527.60

### 6. DEPARTMENT OF PUBLIC SAFETY:

Persin v. State of Hawaii, et al.	\$4,000,000.00
Civil No. 13-1-1571-05, First Circuit	Settlement
Subia, et al. v. State of Hawaii, et al.	\$ 625,000.00
Civil No. 14-1-1443-06 GWBC, First Circuit	Settlement
Avila v. State of Hawaii, et al.	\$ 35,000.00
Civil No. 13-1-3149-12 ECN, First Circuit	Settlement
Tui v. Department of Public Safety	\$ 20,000.00
Civil No. 11-1-0871-05 VLC, First Circuit	Settlement
SUBTOTAL:	\$4,680,000.00

### 7. MISCELLANEOUS CLAIMS:

Kasey M. Dowling	\$ 600.00
Judy M. Takano	\$ 736.20
Phillips-Van Heusen Corp.	\$ 207,127.99
SUBTOTAL:	\$ 208,464.19
Total (PART 1):	\$10,260,163.74

The sums appropriated shall be expended by the department of the attorney general for the purposes of this part.

## PART II

SECTION 2. The following sums or so much thereof as may be necessary for fiscal year 2015-2016 are appropriated out of the state highway fund for the purpose of satisfying claims for legislative relief as to the following named persons, for claims against the State or its officers or employees for payments of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

### JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:

	AMOUNT
DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION:	
8. Le v. Turtle Bay Resort, LLC, et al.	\$ 650,000.00
Civil No. 13-1-1885-17, First Circuit	Settlement
Faith Action for Comm. Equity, et al. v.	\$ 50,000.00
Hawaii Dept. of Trans., et al.	
Civil No. 13-00450 SOM RLP, USDC	Settlement
TOTAL (PART 2)	\$ 700,000.00

The sums appropriated shall be expended by the department of transportation, highways division, for the purposes of this part.

## PART III

SECTION 3. The sums hereinabove may be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in several amounts hereinabove set forth or in lesser amounts deemed appropriate, upon checks issued by the comptroller; provided that the departments shall obtain the approval of the attorney general before payment of any claim can be made.

SECTION 4. Notwithstanding the sums hereinabove stated as interest upon judgments against the State, payment of interest shall be limited to the period from the date of judgment, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which the statute applies.

SECTION 5. All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2017, shall lapse.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 6, 2016.)

## ACT 64

S.B. NO. 2555

A Bill for an Act Relating to State Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to address state funds.

The legislature finds that article VII, section 6, of the Constitution of the State of Hawaii requires the legislature to provide, when certain conditions occur, a tax refund or tax credit to state taxpayers or make a deposit into one or more funds, as provided by law, to serve as a reserve for the State. The conditions are that the state general fund balances at the end of two successive fiscal years exceed five per cent of the state general revenues for those fiscal years.

The legislature finds that the state general fund balances at the end of fiscal years 2013-2014 and 2014-2015 exceeded five per cent of the state general revenues for those fiscal years. The legislature recognized in Act 202, Session Laws of Hawaii 2015, that although the emergency and budget reserve fund balance exceeded the statutory maximum established in section 328L-3(a)(3), the fiscally prudent course of action was to deposit the excess general revenue fund balance into the emergency and budget reserve fund as a bulwark against future fiscal downturns. Therefore, the legislature exercised its constitutional legislative powers to waive the statutory ceiling on the emergency and budget reserve fund and, as provided by law, deposit the excess general fund revenues into the emergency and budget reserve fund to "serve as a<sup>1</sup> temporary supplemental sources of

funding for the State in times of an emergency, economic downturn, or unforeseen reduction in revenue” in accordance with article VII, section 6.

The legislature finds that the best course of action during the regular session of 2016 is to make a deposit into the emergency and budget reserve fund instead of providing a tax refund or credit. The legislature finds it preferable to increase the reserve fund at present to address possible emergencies and contingencies that may occur in the future when state revenues slow down.

SECTION 2. Notwithstanding any law to the contrary, for fiscal year 2015-2016, the director of finance shall transfer to the emergency and budget reserve fund the total sum of the tax credit or tax refund as determined by the legislature pursuant to the provisions of article VII, section 6, of the Hawaii Constitution.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2015-2016 to be deposited into the emergency and budget reserve fund by the director of finance.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 6, 2016.)

**Note**

1. So in original.

**ACT 65**

S.B. NO. 3109

A Bill for an Act Relating to Manufacturing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 215, Session Laws of Hawaii 2015, is amended by amending section 2 to read as follows:

“SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000 or so much thereof as may be necessary for fiscal year 2015-2016 to facilitate the provision of grants by the high technology development corporation to manufacturing businesses in Hawaii for certain purchases and employee training purposes[-]; provided that this appropriation shall not lapse at the end of fiscal year 2015-2016; provided further that all moneys that are unencumbered as of June 30, 2017, shall lapse as of that date.

The sum appropriated shall be expended by the high technology development corporation for the purposes of this Act.”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the manufacturing grant program, including operational expenses.

The sum appropriated shall be expended by the high technology development corporation for the purposes of this Act.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on June 29, 2016; provided that Section 2 shall take effect on July 1, 2016.

(Approved June 6, 2016.)

## ACT 66

S.B. NO. 3110

A Bill for an Act Relating to Technology.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 216, Session Laws of Hawaii 2015, is amended by amending section 3 to read as follows:

“SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000 or so much thereof as may be necessary for fiscal year 2015-2016 for the purposes of providing grants and loans for phases II and III awards~~[-]; provided that this appropriation shall not lapse at the end of fiscal year 2015-2016; provided further that all moneys that are unencumbered as of June 30, 2017, shall lapse as of that date.~~

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the purposes of providing grants and loans for phases II and III awards.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on June 29, 2016; provided that section 2 shall take effect on July 1, 2016.

(Approved June 6, 2016.)

## ACT 67

S.B. NO. 2453

A Bill for an Act Relating to Aquatic Resources Penalties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 187A-13, Hawaii Revised Statutes, is amended to read as follows:

“**§187A-13 General penalty**~~[-]; community service.~~ (a) Any person violating this chapter or any rule adopted thereunder for which a penalty is not otherwise provided, shall be guilty of a petty misdemeanor and, in addition to any other penalties, shall be fined not less than:

- (1) \$250 for a first offense;
- (2) \$500 for a second offense; and
- (3) \$1,000 for a third or subsequent offense.

(b) ~~[The fines specified in this section shall not be suspended or waived.]~~  
The court may require the defendant to complete an aquatic resources educational class administered by the department in addition to or in lieu of paying all or any part of any monetary fine authorized by this section.

(c) The court may direct the defendant to perform community service as administered by the department in lieu of paying any monetary fine authorized by this section."

SECTION 2. Section 188-70, Hawaii Revised Statutes, is amended to read as follows:

**"§188-70 Penalties.** (a) Any person violating any provision of or any rule adopted pursuant to this chapter, except sections 188-23 and 188-39.5, is guilty of a petty misdemeanor and, in addition to any other penalties, shall be fined not less than:

- (1) \$100 for a first offense;
- (2) \$200 for a second offense; and
- (3) \$500 for a third or subsequent offense.

(b) Any person violating section 188-23, is guilty of a class C felony and shall be sentenced pursuant to chapter 706; provided that the environmental court, in addition to any term of imprisonment or any other terms and conditions of probation, shall order the defendant to pay a fine of not less than \$1,000. Notwithstanding section 706-669 and any other law to the contrary, any person in violation of subsection (b), as a first offense, shall be sentenced to a mandatory minimum period of imprisonment without possibility of parole for thirty days. Repeat offenders shall be sentenced pursuant to chapter 706.

(c) ~~[The fines specified in this section shall not be suspended or waived.]~~  
The court may require the defendant to complete an aquatic resources educational class administered by the department of land and natural resources in addition to or in lieu of paying all or any part of any monetary fine authorized by this section.

(d) The court may direct the defendant to perform community service as administered by the department of land and natural resources in lieu of paying any monetary fine authorized by this section."

SECTION 3. Section 190-5, Hawaii Revised Statutes, is amended to read as follows:

**"§190-5 Penalty.** (a) Any person violating this chapter, any rule adopted pursuant thereto, or the terms and conditions of any permit issued under section 190-4, shall be guilty of a petty misdemeanor and punished as provided in subsections (b) and (c).

(b) The punishment, in addition to any other penalties, shall be a fine of not less than:

- (1) \$250 for a first offense;
- (2) \$500 for a second offense; and
- (3) \$1,000 for a third or subsequent offense.

(c) ~~[The fines specified in this section shall not be suspended or waived.]~~  
The court may require the defendant to complete an aquatic resources educational class administered by the department of land and natural resources in addition to or in lieu of paying all or any part of any monetary fine authorized by this section.

(d) The court may allow the defendant to perform community service as administered by the department of land and natural resources in lieu of paying any monetary fine authorized by this section."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 16, 2016.)

**ACT 68**

S.B. NO. 2392

A Bill for an Act Relating to Opioid Antagonists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that drug overdose deaths in the United States have more than doubled since 1999. According to the most recent data from the federal Centers for Disease Control and Prevention, in 2013, more than 16,000 deaths associated with opioid pain relievers were reported. Deaths involving heroin have also doubled in recent years, with more than 8,000 deaths reported in 2013. According to the Centers for Disease Control and Prevention, overdoses involving prescription painkillers are at epidemic levels. However, deaths caused by opioids are often preventable via timely administration of an opioid antagonist, such as naloxone hydrochloride. Studies have found that providing opioid overdose training and naloxone kits can help people identify signs of an opioid-related drug overdose and can help reduce opioid overdose mortality.

The legislature further finds that opioid antagonist use has been approved by the federal Food and Drug Administration and used for more than forty years by emergency medical services personnel to reverse opioid overdose. Opioid antagonists have no psychoactive effects and do not have any potential for abuse, and first responders and family members with no medical training can learn to administer them safely. Furthermore, research has shown that the increased availability of opioid antagonists does not encourage people to use more drugs or engage in riskier behavior.

The legislature additionally finds that over half of the states in the country have enacted some form of a 911 drug immunity law or have implemented a law or developed a pilot program to allow administration of medication, like opioid antagonists, to reverse the effects of an opioid-related overdose. Numerous state and national organizations also support increased access to naloxone hydrochloride, including but not limited to the American Public Health Association, American Medical Association, American Pharmacists Association, Harm Reduction Coalition, American Society of Addiction Medicine, National Governors Association, law enforcement organizations, and organizations representing first responders.

Accordingly, the purpose of this Act is to:

- (1) Create immunity for health care professionals and pharmacists who prescribe, dispense, distribute, or administer an opioid antagonist such as naloxone hydrochloride to persons who are at risk of experiencing or who are experiencing an opioid-related drug overdose;
- (2) Create immunity for any person who administers an opioid antagonist to a person suffering from an opioid-related drug overdose;

- (3) Authorize emergency personnel and first responders to administer opioid antagonists;
- (4) Require medicaid coverage for opioid antagonists; and
- (5) Allow harm reduction organizations to store and distribute opioid antagonists.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
OVERDOSE PREVENTION AND EMERGENCY RESPONSE ACT**

§ -1 **Definitions.** The following definitions apply throughout this chapter:

“Harm reduction organization” means an organization that provides services, including medical care, counseling, homeless services, or addiction treatment, to individuals at risk of experiencing an opioid-related drug overdose event or to the friends and family members of an at-risk individual.

“Health care professional” means a physician licensed under chapter 453, physician assistant under the authority and supervision of a physician, or advanced practice registered nurse with prescriptive authority licensed under chapter 457.

“Opioid antagonist” means any drug that binds to opioid receptors and blocks or disinhibits the effects of opioids acting on those receptors, and that is approved by the United States Food and Drug Administration for treating opioid-related drug overdose.

“Opioid-related drug overdose” means a condition including but not limited to extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death resulting from the consumption or use of an opioid, or another substance with which an opioid was combined, or a condition that a layperson would reasonably believe to be an opioid-related drug overdose that requires medical assistance.

“Pharmacist” means a registered pharmacist as defined in chapter 461.

“Standing order” means a prescription order for an opioid antagonist issued by a health care professional who is otherwise authorized to prescribe an opioid antagonist that is not specific to and does not identify a particular patient and which may be applicable to more than one patient.

§ -2 **Immunity.** (a) Notwithstanding any other law to the contrary, a health care professional otherwise authorized to prescribe an opioid antagonist may, directly or by standing order, prescribe, dispense, and distribute an opioid antagonist to:

- (1) An individual at risk of experiencing an opioid-related drug overdose;
- (2) Another person in a position to assist an individual at risk of experiencing an opioid-related drug overdose; or
- (3) A harm reduction organization.

Any such prescribing, dispensing, or distributing of an opioid antagonist pursuant to this chapter shall be regarded as being for a legitimate medical purpose in the usual course of professional practice.

(b) A health care professional or pharmacist who, acting in good faith and with reasonable care, prescribes, dispenses, or distributes an opioid antagonist pursuant to this chapter shall not be subject to any criminal or civil liability or any professional disciplinary action for:

- (1) Prescribing, dispensing, or distributing the opioid antagonist; and
- (2) Any outcomes resulting from the eventual administration of the opioid antagonist.
- (c) Notwithstanding any other law to the contrary, any person may lawfully possess an opioid antagonist.

(d) A person who, acting in good faith and with reasonable care, administers an opioid antagonist to another person whom the person believes to be suffering an opioid-related drug overdose shall be immune from criminal prosecution, sanction under any professional licensing law, and civil liability for acts or omissions resulting from the administration.

**§ -3 Opioid antagonist administration; emergency personnel and first responders.** Beginning on January 1, 2017, every emergency medical technician licensed and registered in Hawaii and all law enforcement officers, firefighters, and lifeguards shall be authorized to administer an opioid antagonist as clinically indicated.

**§ -4 Medicaid coverage.** The department of human services shall ensure that opioid antagonists for outpatient use are covered by the medicaid prescription drug program on the same basis as other covered drugs.

**§ -5 Harm reduction organization; opioid antagonist; exemption.** Notwithstanding any other law or regulation to the contrary, a person or harm reduction organization acting under a standing order may store an opioid antagonist without being subject to chapter 328, except part VII, and may distribute an opioid antagonist; provided that the distribution is done without charge or compensation.

**§ -6 Unintentional opioid-related drug overdose; reporting.** The department of health shall ascertain, document, and publish an annual report on the number of, trends in, patterns in, and risk factors related to unintentional opioid-related drug overdose fatalities occurring each year within the State. The report shall provide information on interventions that would be effective in reducing the rate of fatal or nonfatal drug overdose.

**§ -7 Opioid-related drug overdose recognition, prevention, and response.** The department of health shall work with community partners to provide or establish any of the following:

- (1) Education on opioid-related drug overdose prevention, recognition, and response, including opioid antagonist administration;
- (2) Training on opioid-related drug overdose prevention, recognition, and response, including opioid antagonist administration, for patients receiving opioids and their families and caregivers;
- (3) Opioid antagonist prescription and distribution projects; and
- (4) Education and training projects on opioid-related drug overdose response and treatment, including opioid antagonist administration, for emergency services and law enforcement personnel, including volunteer firefighters, lifeguards, and emergency services personnel."

**SECTION 3.** Section 461-1, Hawaii Revised Statutes, is amended by amending the definition of "practice of pharmacy" to read as follows:

"“Practice of pharmacy” means:

- (1) The interpretation and evaluation of prescription orders; the compounding, dispensing, and labeling of drugs and devices (except la-



belonging by a manufacturer, packer, or distributor of nonprescription drugs and commercially legend drugs and devices); the participation in drug selection and drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records therefor; the responsibility for advising when necessary or where regulated, of therapeutic values, content, hazards, and use of drugs and devices;

- (2) Performing the following procedures or functions as part of the care provided by and in concurrence with a "health care facility" and "health care service" as defined in section 323D-2, or a "pharmacy" or a licensed physician, or a "managed care plan" as defined in section 432E-1, in accordance with policies, procedures, or protocols developed collaboratively by health professionals, including physicians and surgeons, pharmacists, and registered nurses, and for which a pharmacist has received appropriate training required by these policies, procedures, or protocols:
  - (A) Ordering or performing routine drug therapy related patient assessment procedures;
  - (B) Ordering drug therapy related laboratory tests;
  - (C) Initiating emergency contraception oral drug therapy in accordance with a written collaborative agreement approved by the board, between a licensed physician and a pharmacist who has received appropriate training that includes programs approved by the American Council of Pharmaceutical Education (ACPE), curriculum-based programs from an ACPE-accredited college of pharmacy, state or local health department programs, or programs recognized by the board of pharmacy;
  - (D) Administering drugs orally, topically, by intranasal delivery, or by injection, pursuant to the patient's licensed physician's order, by a pharmacist having appropriate training that includes programs approved by the ACPE, curriculum-based programs from an ACPE-accredited college of pharmacy, state or local health department programs, or programs recognized by the board of pharmacy;
  - (E) Administering:
    - (i) Immunizations orally, by injection, or by intranasal delivery, to persons eighteen years of age or older by a pharmacist having appropriate training that includes programs approved by the ACPE, curriculum-based programs from an ACPE-accredited college of pharmacy, state or local health department programs, or programs recognized by the board of pharmacy; and
    - (ii) Vaccines to persons between fourteen and seventeen years of age pursuant to section 461-11.4;
  - (F) As authorized by a licensed physician's written instructions, initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's licensed physician and related to the condition for which the patient has been seen by the licensed physician; provided that the pharmacist shall issue written notification to the patient's licensed physician or enter the appropriate information in an electronic patient record system shared by the licensed physician, within twenty-four hours;

- (G) Transmitting a valid prescription to another pharmacist for the purpose of filling or dispensing; ~~or~~
- (H) Providing consultation, information, or education to patients and health care professionals based on the pharmacist's training and for which no other licensure is required; ~~and~~ or
- (I) Dispensing an opioid antagonist in accordance with a written collaborative agreement approved by the board, between a licensed physician and a pharmacist who has received appropriate training that includes programs approved by the American Council on Pharmaceutical Education (ACPE), curriculum-based programs from an ACPE-accredited college of pharmacy, state or local health department programs, or programs recognized by the board; and
- (3) The offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 16, 2016.)

## ACT 69

H.B. NO. 2252

A Bill for an Act Relating to Discharge Planning.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### "CHAPTER HOSPITAL DISCHARGE PLANNING – DESIGNATION OF A CAREGIVER

§ -1 **Definitions.** As used in this chapter:

"After-care" means any assistance provided by a caregiver to a patient following the patient's discharge from a hospital that is related to the patient's condition at the time of discharge, including but not limited to assisting with basic activities of daily living, instrumental activities of daily living, and other tasks determined to be appropriate by the discharging physician or other health care professional licensed pursuant to chapter 453 or 457.

"Caregiver" means any individual duly designated by a patient to provide after-care to the patient in the patient's residence. The term includes but is not limited to a relative, spouse, partner, friend, or neighbor who has a significant relationship with the patient.

"Contact information" means name, phone number, electronic mail address, and address of residence, where available.

“Discharge” means a patient’s exit or release from a hospital to the patient’s residence following any medical care or treatment rendered to the patient following an inpatient admission.

“Entry” means a patient’s entrance into a hospital for the purpose of receiving inpatient medical care.

“Hospital” means a facility licensed under section 321-14.5, excluding children’s hospitals and specialty hospitals.

“Patient” means an individual admitted to a hospital for inpatient treatment.

“Residence” means a dwelling that the patient considers to be the patient’s home and shall not include any residential facility, treatment facility, or home licensed or certified by the department of health under chapter 321, or a private residence used for commercial purposes to care for dependent individuals.

**§ -2 Designation of a caregiver.** (a) Each hospital shall adopt and maintain a written discharge policy or policies that include the following components:

- (1) Each patient is provided an opportunity to designate a caregiver, to be included in the patient’s electronic health record;
- (2) Each patient and the patient’s designated caregiver are given the opportunity to participate in the discharge planning;
- (3) Each patient and the patient’s designated caregiver are given the opportunity to receive instruction, prior to discharge, related to the patient’s after-care needs; and
- (4) Each patient’s caregiver is notified of the patient’s discharge or transfer. A hospital shall make reasonable attempts to notify the patient’s caregiver of the patient’s discharge to the patient’s residence as soon as practicable. In the event that the hospital is unable to contact the designated caregiver, the lack of contact shall not interfere with, delay, or otherwise affect the medical care provided to the patient or an appropriate discharge of the patient.

(b) The discharge policy or policies shall specify the requirements for documenting:

- (1) The caregiver who is designated by the patient; and
- (2) The caregiver’s contact information.

(c) The discharge policy or policies shall also incorporate one of the following:

- (1) Standards for accreditation adopted by The Joint Commission or other nationally recognized hospital accreditation organizations; or
- (2) The conditions of participation for hospitals adopted by the Centers for Medicare and Medicaid Services.

(d) This section does not require hospitals to adopt discharge policies that would:

- (1) Delay a patient’s discharge or transfer to another facility; or
- (2) Require the disclosure of protected health information without obtaining the patient’s consent as required by state and federal laws governing health information privacy and security.

**§ -3 Non-interference with existing health care directives.** Nothing in this chapter shall be construed to interfere with the rights of an agent operating under a valid health care directive under section 327E-3 or confer upon the caregiver any authority to make health care decisions on behalf of the patient unless the caregiver is designated as an agent in a health care directive under section 327E-3.

**§ -4 Limitation of liability.** (a) Nothing in this chapter shall be construed to give rise to a private cause of action against a hospital, hospital employee, or a consultant or contractor that has a contractual relationship with a hospital.

(b) A hospital, hospital employee, or a consultant or contractor that has a contractual relationship with a hospital shall not be held liable for the services rendered or not rendered by a caregiver to a patient at the patient's residence.

**§ -5 Preservation of coverage.** Nothing in this chapter shall be construed to remove the obligation of a third-party payer to cover a health care item or service that the third-party payer is obligated to provide to a patient under the terms of a valid agreement, insurance policy, plan, or certification of coverage or health maintenance organization contract."

SECTION 2. This Act shall take effect on July 1, 2017.

(Approved June 16, 2016.)

## ACT 70

H.B. NO. 2722

A Bill for an Act Relating to Unemployment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that a number of large employers, including the State's last large-scale sugar operation, recently announced mass layoffs in Maui county. During the first four months of 2016, the department of labor and industrial relations received, via dislocated worker notices pursuant to chapter 394B, Hawaii Revised Statutes, notification of 2,808 workers either losing or potentially losing jobs. These workers represent approximately 3.5 per cent of the 82,550 employed persons in Maui county during February 2016.

The legislature further finds that it may be difficult for a large number of these workers to find work quickly because their occupational skills are not suitable for the current job market on Maui, especially those workers with agricultural and medical skills.

The purpose of this Act is to create a temporary program limited to Maui county to provide additional benefits to unemployed workers by extending unemployment insurance benefits. The funds for state additional benefits payable under this Act shall be withdrawn from the unemployment compensation trust fund pursuant to sections 383-121 to 383-123, Hawaii Revised Statutes. If necessary, additional moneys may be allocated from the state general fund and used for the payment of expenses incurred for the administration of state additional benefits.

SECTION 2. For the purpose of this Act:

"Base period" shall be defined as in section 383-1, Hawaii Revised Statutes.

"Benefit year" shall be defined as in section 383-1, Hawaii Revised Statutes.

"Continued claim certification" means an application that certifies the completion of a week of total, part-total, or partial unemployment to claim benefits for a week of unemployment as described in the definition of "continued claim certification" in section 12-5-73, Hawaii Administrative Rules.

“Initial claim” includes a new claim, an additional claim, or a reopened claim as defined in section 12-5-73, Hawaii Administrative Rules.

“Regular benefits” means the unemployment insurance benefits paid on an initial claim filed under chapter 383, Hawaii Revised Statutes, except as provided for in sections 383-168 through 383-176, Hawaii Revised Statutes.

“State additional benefits” means the unemployment compensation benefits payable under this Act.

“State additional benefits eligibility period” means the period beginning on September 4, 2016, and ending on October 28, 2017.

“Week of unemployment” shall be defined as in section 383-1, Hawaii Revised Statutes.

**SECTION 3.** An individual shall be eligible to receive a payment of state additional benefits with respect to a week of unemployment in accordance with this Act; provided that:

- (1) The benefit year for the most recent initial claim filed by the individual begins on or after March 1, 2015;
- (2) The individual had at least two quarters of insured employment in Maui county during the base period of the initial claim filed under (1);
- (3) The individual exhausted regular benefits under chapter 383, Hawaii Revised Statutes, within the state additional benefits eligibility period;
- (4) The individual filed an initial claim and filed continued claim certifications for state additional benefits during the state additional benefits eligibility period;
- (5) The week of unemployment falls within the state additional benefits eligibility period;
- (6) The individual is not receiving unemployment benefits under federal law or the laws of any other state, or any federal or federal-state extended benefits program or adjustment assistance under chapter 2 of title II of the Trade Act of 1974, as amended, during the same weeks within the state additional benefits eligibility period for which state additional benefits are claimed; and
- (7) The individual has met all other conditions of eligibility that apply to regular benefits under chapter 383, Hawaii Revised Statutes, except that no individual shall be required to serve a waiting period in the state additional benefits eligibility period.

**SECTION 4.** (a) The weekly state additional benefits amount payable to an eligible individual for a week of total unemployment within the state additional benefits eligibility period shall be an amount equal to the weekly benefit amount payable in the individual’s current or most recently expired benefit year within the state additional benefits eligibility period.

(b) The maximum state additional benefits amount payable to any eligible individual during the state additional benefits eligibility period shall be thirteen times the individual’s weekly state additional benefits amount.

(c) No state additional benefits shall be payable for any week beginning prior to the state additional benefits eligibility period or for any week beginning after the state additional benefits eligibility period ends.

**SECTION 5.** State additional benefits paid to an individual shall be charged against the account of any of the individual’s base period employers in the same manner as regular benefits were charged on the individual’s current or

most recently expired benefit year within the state additional benefits eligibility period, and consistent with section 383-65, Hawaii Revised Statutes.

SECTION 6. Except when the result would be inconsistent with this Act, the provisions of chapter 383, Hawaii Revised Statutes, which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, state additional benefits.

SECTION 7. No provision contained in this Act shall apply when the balance of the unemployment compensation trust fund is below the adequate reserve fund defined by section 383-63, Hawaii Revised Statutes.

SECTION 8. No provision contained in this Act shall apply to the payment of state additional benefits if the provision conflicts with federal statutes and jeopardizes the receipt of federal administrative funding and certification for the federal Unemployment Tax Act employer tax offset credit.

If any provision in this Act jeopardizes the receipt of federal funds, the governor is authorized to revise any provision of this Act to the extent required to maximize the receipt of federal funds. The governor shall promptly report any revision and reasons therefor to the legislature at the next legislative session thereafter.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$650,000 or so much thereof as may be necessary for fiscal year 2016-2017 to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of labor and industrial relations for the purposes of this Act.

SECTION 10. This Act shall take effect upon its approval and shall be repealed on October 28, 2017; provided that section 9 shall take effect on July 1, 2016.

(Approved June 17, 2016.)

## ACT 71

H.B. NO. 2605

A Bill for an Act Relating to Labor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the closure of Hawaiian Commercial & Sugar Company, the State's last sugar plantation, and Makena Beach and Golf Resort will lead to a loss of over one thousand jobs on Maui. Although some employees of Hawaiian Commercial & Sugar Company will be covered for job training assistance under the recent federal Trade Adjustment Act certification, other dislocated workers will not qualify. As these employees lose their jobs and income, restaurants and stores may see a decrease in customers and sales, families may not be able to pay their mortgages and rent, and students may no longer be able to afford school or college tuitions.

The legislature further finds that in 2014, the United States Department of Labor awarded the State a Job-Driven National Emergency Grant to implement or expand job-driven training programs for dislocated workers including but not limited to opportunities for on-the-job training and apprenticeships. However, these funds are limited and are due to expire on June 30, 2016, there-

by making the funds unavailable for a large group of dislocated workers in the county of Maui, who have diverse training needs.

The purpose of this Act is to address the pending unemployment and dislocation of workers in the county of Maui for whom there are insufficient federal funds, by appropriating funds to establish, administer, and support job training and other activities that assist these workers' transition into other employment.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$850,000 or so much thereof as may be necessary for fiscal year 2016-2017 to establish, administer, and support job training and preparation activities, including but not limited to basic computer literacy, job search assistance, skill assessments, vocational counseling, remedial math and English, English as a second language, vocational training, work experience, on-the-job training, and support services, such as assistance with work tools, safety shoes, and job certification fees for individuals who are dislocated from employment in the county of Maui.

The sum appropriated shall be expended by the department of labor and industrial relations for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved June 17, 2016.)

ACT 72

H.B. NO. 2034

A Bill for an Act Making an Appropriation to the Kaho'olawe Island Reserve Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Through Act 340, Session Laws of Hawaii 1993, the legislature found that the island of Kaho'olawe was of significant cultural and historic importance to the native people of Hawaii. The legislature also found that, due to extensive erosion and other ecological problems, the presence of unexploded ordnance, the existence of archaeological and other cultural and historic sites, and the presence of native and endangered flora and fauna, a new management regime was needed to effectively meet the unique challenges of restoring, preserving, and determining the appropriate use of Kaho'olawe.

The Kaho'olawe island reserve commission is funded predominantly by a dwindling trust fund created in 1994 during the federal cleanup of unexploded ordnance on Kaho'olawe. Although it was a considerable amount, the federal appropriation totaling approximately \$44,000,000 over a period of several years was not substantial enough to establish a sustainable endowment for the long-term restoration of Kaho'olawe.

As stated in the federally mandated Kaho'olawe island conveyance commission final report to Congress in 1993, "In the short term, federal funds will provide the bulk of the program support for specific soil conservation projects and related activities. In the longer term, however, state revenues will be needed to continue and enhance those activities initiated with federal funds." For the past twenty-one years, federal funding has allowed the Kaho'olawe island reserve commission to establish many innovative programs that emphasize ancestral and traditional knowledge, use a cultural approach of respect for and connectivity to the environment, and integrate ancient and modern resource-management techniques.

In 2004, the management and control of the Kaho'olawe island reserve was transferred from the United States Navy to the State of Hawaii, with the Kaho'olawe island reserve commission as the state agency designated to oversee the use and restoration of the reserve. During the past ten years, the Kaho'olawe island reserve commission has been able to develop innovative restoration projects that are effective in the extremely harsh conditions of Kaho'olawe and will serve as the foundation for the future restoration of the island.

A fiscal audit of the Kaho'olawe rehabilitation trust fund performed by the office of the auditor in 2013 reported two key findings. First, and more importantly, the trust fund will be depleted by 2016. Second, the Kaho'olawe island reserve commission lacks a comprehensive and quantifiable restoration plan with performance measures to gauge whether objectives are being met.

Also in 2013, the Kaho'olawe island reserve commission embarked on the development of a 2026 strategic plan for Kaho'olawe, marking fifty years of occupation of Kaho'olawe by the people of Hawaii and laying out a pathway for the future use and management of the Kaho'olawe island reserve. After a two-year effort that engaged Hawaii's residents through numerous community meetings and focus-group sessions held on multiple occasions on each of the islands, the multi-organizational Kaho'olawe strategic planning working group developed an island-wide, community-based strategic plan, entitled "I Ola Kanaloa", or "Life to Kanaloa", that addresses the future restoration, management, and uses of Kaho'olawe for the State, the people of Hawaii, and a possible future sovereign Native Hawaiian entity. Pursuant to section 6K-9, Hawaii Revised Statutes, the management and control of the Kaho'olawe island reserve will be transferred to a sovereign Native Hawaiian entity upon its recognition by the state and federal governments. This event is anticipated to occur within the time-frame of the 2026 strategic plan.

Without additional funding, the Kaho'olawe island reserve commission will not be able to continue its innovative management regime beyond fiscal year 2016. The Kaho'olawe island reserve commission's management and control of Kaho'olawe is not only restoring the ecological damage on Kaho'olawe and protecting its endangered and rare flora and fauna but is also ensuring that the people of Hawaii who visit the Kaho'olawe island reserve can do so meaningfully and safely.

The purpose of this Act is to provide funds to the Kaho'olawe island reserve commission to effectively meet the unique challenges of restoring, preserving, and determining the appropriate uses of the Kaho'olawe island reserve for the people of Hawaii.

**SECTION 2.** The Kaho'olawe island reserve commission shall submit a financial self-sufficiency and sustainability plan, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2017.

**SECTION 3.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$450,000 or so much thereof as may be necessary for fiscal year 2016-2017 for projects undertaken by the Kaho'olawe island reserve commission, including but not limited to the restoration and preservation of the natural, cultural, and historic resources of the Kaho'olawe island reserve and its meaningful and safe use by the people of Hawaii.

The sum appropriated shall be expended by the Kaho'olawe island reserve commission for the purposes of this Act.

**SECTION 4.** This Act shall take effect on July 1, 2016.

(Approved June 17, 2016.)



A Bill for an Act Relating to Records of the Hawaii Health Systems Corporation.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 323F-6, Hawaii Revised Statutes, is amended to read as follows:

**“§323F-6 Records.** (a) The corporation and each regional system board shall be subject to the requirements of chapter 92F, except that the following categories of government records shall not be required to be disclosed:

- (1) Applications for credentials or staff privileges at any of the corporation's medical facilities, records from peer review proceedings, and medical records; and
- (2) Marketing strategies, strategic plans, evaluations, assessments, negotiations, or rates and charges, the disclosure of which would raise the cost of procurement or give a manifestly unfair advantage to any competitor or to any person or entity seeking to do business or proposing to enter into an agreement with a regional system board, the corporation, or any of its facilities.

Any person denied access to any such government records shall have available the remedies specified in sections 92F-15 and 92F-15.5. Government records protected from disclosure by this section shall be subject to the inter-agency disclosure provisions of section 92F-19. Section 624-25.5 shall apply to this part notwithstanding anything to the contrary contained in this section.

(b) The corporation shall have the authority to set rates for copies of records protected by this section from the disclosure requirements of chapter 92F. For medical records subpoenaed from any of the corporation's regional system facilities, copies shall be paid for by the requester in an amount based on the facility's actual cost of preparation; provided that the amount shall be no less than \$1 per page and no more than \$2 per page.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved June 20, 2016.)

A Bill for an Act Relating to Hoisting Machine Operators.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 396-19, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The hoisting machine operators advisory board may employ a 0.5 full-time equivalent ~~[executive director,]~~ office assistant, without regard to chapters 76 and 89 and may dismiss such person as it finds necessary for the perfor-

mance of its function and duties. The board shall have the authority to fix the ~~[executive director's]~~ office assistant's compensation."

SECTION 2. Section 396-20, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The fund may be used for:

- (1) Personnel and operating expenses, including consultants as necessary, for ~~[an executive director for]~~ the hoisting machine operators advisory board;
- (2) All necessary board costs and reimbursements;
- (3) Preparation and dissemination of public information on hoisting machine operators' certification and training;
- (4) Preparation of annual reports on certification program activities and accomplishments and on the fund; and
- (5) Any reimbursements to the state general fund for funds appropriated by the legislature to establish the revolving fund."

SECTION 3. No later than twenty days prior to the convening of the regular session of 2017, the hoisting machine operators advisory board shall submit to the legislature the following information:

- (1) A comprehensive description of current and pending federal Occupational Safety and Health Administration rules and regulations pertaining to hoisting machine operators;
- (2) Similarities and differences between state law and federal Occupational Safety and Health Administration rules and regulations, including federal rules and regulations for state certification of hoisting machine operators;
- (3) Administration of the certification of hoisting machine operators in other states;
- (4) The existing fee structure for certification as a hoisting machine operator in the State; and
- (5) Recommended changes to existing certification procedures for hoisting machine operators in the State, based on the implementation of federal Occupational Safety and Health Administration rules and regulations.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 20, 2016.)

**ACT 75**

H.B. NO. 1543

A Bill for an Act Relating to State Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in Article VII, Section 13 of the State Constitution which states: "Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and inter-

est, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance”, the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the state is set forth in Article VII, Section 13 of the State Constitution, which states in part: “General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance.” Article VII, Section 13 also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including “reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year” and bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not exceed seven per cent of the principal amount of outstanding general obligation bonds not otherwise excluded under said Article VII, Section 13.
- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 2015-2016 and estimated for each fiscal year from 2016-2017 to 2018-2019, is as follows:

<u>Fiscal Year</u>	<u>Net General Fund Revenues</u>	<u>Debt Limit</u>
2012-2013	\$6,226,008,766	
2013-2014	6,088,589,303	
2014-2015	6,569,327,192	
2015-2016	6,988,943,000	\$ 1,164,508,724
2016-2017	7,178,034,000	1,211,556,336
2017-2018	7,470,646,000	1,278,738,759
2018-2019	(not applicable)	1,334,320,085

For fiscal years 2015-2016, 2016-2017, 2017-2018, and 2018-2019, respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 2012-2013, 2013-2014, and 2014-2015 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 2015, dated November 24, 2015. The net general fund revenues for fiscal years 2015-2016 to 2017-2018 are estimates, based on general fund revenue estimates made as of March 14, 2016, by the council on revenues, the body assigned by Article VII, Section 7 of the State Constitution to make such estimates, and based on estimates made by the department of budget

and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit.

- (A) According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds, after the exclusions permitted by Article VII, Section 13 of the State Constitution, for determining the power of the State to issue general obligation bonds within the debt limit as of April 1, 2016, is as follows for fiscal year 2016-2017 to fiscal year 2022-2023:

<u>Fiscal Year</u>	<u>Principal and Interest</u>
2016-2017	\$707,019,205
2017-2018	669,611,446
2018-2019	688,618,752
2019-2020	642,793,901
2020-2021	578,519,058
2021-2022	575,562,107
2022-2023	557,199,708

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit generally continues to decline each year from fiscal year 2023-2024 to fiscal year 2035-2036 when the final installment of \$57,750,715 shall be due and payable.

- (B) The department of budget and finance further reports that the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$233,500,000, all or part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to Article VII, Section 13 of the State Constitution.
- (4) Amount of authorized and unissued general obligation bonds and guaranties and proposed bonds and guaranties.

- (A) As calculated from the state comptroller's bond fund report as of March 31, 2016, adjusted for:

- (i) Appropriations to be funded by general obligation bonds or reimbursable general obligation bonds as provided in Act 119, Session Laws of Hawaii 2015 (the General Appropriations Act of 2015), to be expended in fiscal year 2016-2017, adjusted for additional appropriations provided in House Bill No. 1700, H.D. 1, S.D. 1, C.D. 1<sup>1</sup> (the Supplemental Appropriations Act of 2016); and
- (ii) Lapses as provided in House Bill No. 1700, H.D. 1, S.D. 1, C.D. 1<sup>1</sup> (the Supplemental Appropriations Act of 2016); the total amount of authorized but unissued general obligation bonds is \$2,491,246,627. The total amount of general obligation bonds authorized in this Act is \$967,283,000. The total amount of general obligation bonds previously authorized and unissued, as adjusted, and the general obligation bonds authorized in this Act is \$3,458,529,627.

- (B) As reported by the department of budget and finance the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$233,500,000, all or part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to Article VII, Section 13 of the State Constitution.
- (5) Proposed general obligation bond issuance. As reported therein for the fiscal years 2016-2017, 2017-2018, and 2018-2019, the State proposes to issue \$600,000,000 in general obligation bonds during the first half of fiscal year 2016-2017, \$525,000,000 in general obligation bonds during the second half of fiscal year 2016-2017, \$600,000,000 in general obligation bonds during the first half of fiscal year 2017-2018, \$600,000,000 in general obligation bonds during the second half of fiscal year 2017-2018, \$600,000,000 in general obligation bonds during the first half of fiscal year 2018-2019, and \$600,000,000 in general obligation bonds during the second half of fiscal year 2018-2019. The State anticipates issuing twenty-year serial bonds with principal repayments beginning in the third year, payable in substantially equal annual installments of principal and interest payment with interest payments commencing six months from the date of issuance and being paid semi-annually thereafter. It is assumed that this practice will continue to be applied to the bonds that are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds that the State proposes to issue during the fiscal years 2016-2017 to 2017-2018 is \$2,325,000,000. An additional \$1,200,000,000 is proposed to be issued in fiscal year 2018-2019. The total amount of \$2,325,000,000 which is proposed to be issued through fiscal year 2017-2018 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, the total amount of which is \$3,458,529,627 reported in paragraph (4), except for \$1,133,529,627. It is assumed that the appropriations to which an additional \$1,133,529,627 in bond issuance needs to be applied will have been encumbered as of June 30, 2018. The \$1,200,000,000 which is proposed to be issued in fiscal year 2018-2019 will be sufficient to meet the requirements of the June 30, 2018 encumbrances in the amount of \$1,133,529,627. The amount of assumed encumbrances as of June 30, 2018 is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of authorized and unissued bonds, as adjusted, and the bonds authorized by this Act versus the amount of bonds proposed to be issued by June 30, 2018, and the amount of June 30, 2018 encumbrances versus the amount of bonds proposed to be issued in fiscal year 2018-2019, the legislature finds that in the aggregate, the amount of bonds proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.
- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds.

- (A) General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:
- (i) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
  - (ii) Not all reimbursable general obligation bonds may qualify for exclusion.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, according to the department of budget and finance, the average proportion of principal and interest which is excludable each year from the calculation against the debt limit is 0.61 per cent for approximately ten years from fiscal year 2015-2016 to fiscal year 2024-2025. For the purpose of this declaration, the assumption is made that 0.50 per cent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative.

- (B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded but only to the extent the principal amount of such guaranties does not exceed seven per cent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of this paragraph (7) and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under Article VII, Section 13 of the State Constitution for the fiscal years 2015-2016, 2016-2017, 2017-2018, and 2018-2019 are as follows:

<u>Fiscal year</u>	<u>Total amount of General Obligation Bonds not otherwise excluded by Article VII, Section 13 of the State Constitution</u>
2015-2016	6,395,820,000
2016-2017	7,515,195,000
2017-2018	8,709,195,000
2018-2019	9,903,195,000

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when such guaranty changes from a contingent liability to an actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven per cent of the av-

erage amount set forth in the last column of the above table and for which reserve funds have been or will have been established as heretofore provided, can be excluded in determining the power of the State to issue general obligation bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to an actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to Article VII, Section 13 of the State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on such assumptions and on the determination in paragraph (8), all of the outstanding guaranties can be excluded.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate not to exceed 6.00 percent in fiscal years 2017 through 2019, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, general obligation bonds, and instruments of indebtedness under which the State incurs a contingent liability as a guarantor authorized in this Act, will not cause the debt limit to be exceeded at the time of such issuance:

<u>Time of Issuance and Amount to be Counted Against Debt Limit</u>	<u>Debt Limit at Time of Issuance</u>	<u>Greatest Amount and Year of Highest Principal and Interest on Bonds and Guaranties</u>
1st half FY 2016-2017 \$597,000,000	1,211,556,336	727,822,382 (2018-2019)
2nd half FY 2016-2017 \$522,375,000	1,211,556,336	759,164,882 (2018-2019)
1st half FY 2017-2018 \$597,000,000	1,278,738,759	785,380,008 (2019-2020)
2nd half FY 2017-2018 \$597,000,000	1,278,738,759	821,200,008 (2019-2020)
1st half FY 2018-2019 \$597,000,000	1,334,320,085	851,158,365 (2021-2022)
2nd half FY 2018-2019 \$597,000,000	1,334,320,085	906,293,365 (2021-2022)

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act, and for all bonds authorized and unissued, and calculated for all bonds issued and outstanding, and all guaranties, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 2. The legislature finds the bases for the declaration of findings set forth in this Act are reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be

issued, the amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that such matters must remain subject to substantial flexibility.

SECTION 3. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in House Bill No. 1700, H.D. 1, S.D. 1, C.D. 1<sup>1</sup> (the Supplemental Appropriations Act of 2016); passed by the legislature during this regular session of 2016 and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of general obligation bonds so issued shall not exceed \$967,283,000.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with Section 39-16, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

SECTION 4. The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

SECTION 5. In printing this Act, the revisor of statutes shall substitute in section 1 and section 3 the corresponding act numbers for bills identified therein.

SECTION 6. This Act shall take effect upon its approval.  
(Approved June 20, 2016.)

**Note**

1. Act 124.

**ACT 76**

S.B. NO. 2131

A Bill for an Act Relating to Energy.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

SECTION 1. Section 243-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Power-generating facility” means any electricity-generating facility that requires a permit issued under the federal Clean Air Act (42 U.S.C. 7401 through 7671q), the Hawaii air pollution control law (chapter 342B), or both.”

SECTION 2. Section 243-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every distributor shall, in addition to any other taxes provided by law, pay a license tax to the department of taxation for each gallon of liquid fuel refined, manufactured, produced, or compounded by the distributor and sold or



used by the distributor in the State or imported by the distributor, or acquired by the distributor from persons who are not licensed distributors, and sold or used by the distributor in the State. Any person who sells or uses any liquid fuel, knowing that the distributor from whom it was originally purchased has not paid and is not paying the tax thereon, shall pay such tax as would have applied to such sale or use by the distributor. The rates of tax ~~hereby~~ imposed are as follows:

- (1) For each gallon of diesel oil, 1 cent;
- (2) For each gallon of gasoline or other aviation fuel sold for use in or used for airplanes, 1 cent;
- (3) For each gallon of naphtha sold for use in a power-generating facility, 2 cents;
- ~~[(3)]~~ (4) For each gallon of liquid fuel, other than fuel mentioned in paragraphs (1) ~~[and]~~, (2), and (3), and other than an alternative fuel, sold or used in the city and county of Honolulu, or sold in any county for ultimate use in the city and county of Honolulu, 16 cents state tax, and in addition thereto ~~[such]~~ an amount, to be known as the "city and county of Honolulu fuel tax", as shall be levied pursuant to section 243-5;
- ~~[(4)]~~ (5) For each gallon of liquid fuel, other than fuel mentioned in paragraphs (1) ~~[and]~~, (2), and (3), and other than an alternative fuel, sold or used in the county of Hawaii, or sold in any county for ultimate use in the county of Hawaii, 16 cents state tax, and in addition thereto ~~[such]~~ an amount, to be known as the "county of Hawaii fuel tax", as shall be levied pursuant to section 243-5;
- ~~[(5)]~~ (6) For each gallon of liquid fuel, other than fuel mentioned in paragraphs (1) ~~[and]~~, (2), and (3), and other than an alternative fuel, sold or used in the county of Maui, or sold in any county for ultimate use in the county of Maui, 16 cents state tax, and in addition thereto ~~[such]~~ an amount, to be known as the "county of Maui fuel tax", as shall be levied pursuant to section 243-5; and
- ~~[(6)]~~ (7) For each gallon of liquid fuel, other than fuel mentioned in paragraphs (1) ~~[and]~~, (2), and (3), and other than an alternative fuel, sold or used in the county of Kauai, or sold in any county for ultimate use in the county of Kauai, 16 cents state tax, and in addition thereto ~~[such]~~ an amount, to be known as the "county of Kauai fuel tax", as shall be levied pursuant to section 243-5.

If it is shown to the satisfaction of the department, based upon proper records and from ~~[such]~~ any other evidence as the department may require, that liquid fuel, other than fuel mentioned in paragraphs (1) ~~[and]~~, (2), and (3), is used for agricultural equipment that does not operate upon the public highways of the State, the user thereof may obtain a refund of all taxes thereon imposed by this section in excess of 1 cent per gallon. The department shall adopt rules to administer such refunds."

## PART II

SECTION 3. Section 206M-15.5, Hawaii Revised Statutes, is amended to read as follows:

**"§206M-15.5 High technology special fund.** There is established in the state treasury a fund to be known as the high technology special fund, into which shall be deposited, except as otherwise provided by section 206M-17~~[-all]~~:

- (1) Any appropriations or other funds required to be deposited by law;  
and  
 (2) All moneys, fees, and equity from tenants, qualified persons, or other users of the development corporation's industrial parks, projects, other leased facilities, and other services and publications;  
 provided that the total amount of moneys in the fund shall not exceed \$3,000,000 at the end of any fiscal year. All moneys in the fund are appropriated for the purposes of and shall be expended by the development corporation for the operation, maintenance, and management of its industrial parks, projects, facilities, services, and publications, and to pay the expenses in administering the special purpose revenue bonds of the development corporation or in carrying out its project agreements."

### PART III

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval; provided that section 2 shall be applied retroactively and shall be effective on and after January 1, 2016.

(Approved June 20, 2016.)

### ACT 77

S.B. NO. 2845

A Bill for an Act Making Appropriations to Repay General Fund Cash Advances.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. For many years, the general fund financial plan has reflected repayments for an \$89,900,000 cash advance to purchase the former Kapalama military reservation and a \$13,300,000 cash advance for the Hawaii health systems corporation.

Act 73, Session Laws of Hawaii 1989, authorized \$90,000,000 in general obligation bond funds to purchase approximately sixty-seven acres of the former Kapalama military reservation. Due to private activity restrictions on the use of tax-exempt general obligation bond funds, general fund cash advances of \$57,000,000 and \$33,000,000 totaling \$90,000,000 were made to the capital projects fund in order to finance the land purchase. As of June 30, 2015, the amount owed to the general fund is \$89,900,000.

In fiscal year 2002-2003, general fund cash advances totaling \$13,300,000 were made to the Hawaii health systems corporation in order for the corporation to fund its employer contributions to the employees' retirement system and the employer-union health benefits trust fund. During the regular session of 2003, an emergency appropriation was sought to repay the general fund cash advances. However, the measure did not advance from conference committee. As of June 30, 2015, the amount owed to the general fund is \$13,300,000.

The State recognizes that these amounts owed, totaling \$103,200,000, will not be repaid to the general fund. Consequently, the assets and liabilities of the general fund are overstated by \$103,200,000 each. Accordingly, the purpose of this Act is to appropriate general funds to formally write off the general fund cash advances for the purchase of the Kapalama military reservation and for the Hawaii health systems corporation. The effect of this Act will be that general

fund balances will be more accurately reflected in the future and better represent actual resources available to finance state programs. In addition, this Act will reduce the liabilities of the capital projects fund to more accurately reflect the State's outstanding debt.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$89,900,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the purpose of repaying general fund cash advances to the capital projects fund for the purchase of lands of the former Kapalama military reservation.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this Act.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$13,300,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the purpose of repaying general fund cash advances to the Hawaii health systems corporation for its employer contributions to the employees' retirement system and the employer-union health benefits trust fund.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 20, 2016.)

## ACT 78

S.B. NO. 2910

A Bill for an Act Relating to Time Share Commissioners of Deeds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds the existing process for authentication and recordation of time share real estate documents signed outside of the United States can be cumbersome and expensive. Act 277, Session Laws of Hawaii 2013 (Act 277), established the commissioners of deeds program within the office of the lieutenant governor to streamline this process. Act 277 authorizes the governor to appoint commissioners of deeds to administer oaths, take acknowledgments, and take proofs of execution outside of the United States in connection with the execution of conveyance documents relating to time shares. Act 277 also includes protections for consumers wishing to purchase a time share property located in Hawaii, including written notice of legal rights, bonding requirements for commissioners of deeds, and liabilities and limitations on liabilities for commissioners of deeds.

The legislature further finds that after the enactment of Act 277, a working group was established to assist in implementing the commissioners of deeds program. Representatives from the office of the lieutenant governor, department of the attorney general, department of commerce and consumer affairs, and bureau of conveyances, and members of the time share industry met on multiple occasions to discuss and analyze the implementation of Act 277. The working group determined that additional legislation and authorization would assist with the effective implementation of the commissioners of deeds program and ensure the protection of consumers who wish to purchase a time share property located in the State. However, due to a lack of funding and the absence of necessary clarification, the program has not yet been implemented.

Accordingly, the purpose of this Act is to:

- (1) Clarify the lieutenant governor's rulemaking authority;
- (2) Authorize the lieutenant governor to assess and collect fees and administrative fines;
- (3) Clarify the lieutenant governor's responsibility for the commissioners of deeds program;
- (4) Increase the surety bond requirement for commissioners of deeds; and
- (5) Appropriate funds for expenses incurred by the office of the lieutenant governor related to establishing and administering the commissioners of deeds program.

SECTION 2. Chapter 503B, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

**"§503B-A Rules.** The lieutenant governor may adopt rules pursuant to chapter 91 as the lieutenant governor deems necessary to implement this chapter, including but not limited to the appointment and duties of commissioners of deeds and other measures necessary to prevent the fraudulent use of a document affixed with the commissioner of deeds' seal.

**§503B-B Fees and administrative fines.** (a) The lieutenant governor shall charge and collect the following fees:

- (1) Application for commissioner of deeds commission, \$10;
- (2) Application for renewal of commissioner of deeds commission, \$10;
- (3) Application for restoration of forfeited commission, \$10;
- (4) Application for reinstatement of suspended commission, \$10;
- (5) Issuance of the original commission, \$40;
- (6) Renewal of the commission, \$40;
- (7) Restoration of forfeited commission, \$60;
- (8) Reinstatement of suspended commission, \$40; and
- (9) Commission name change, \$10.

Fees may be adjusted by the lieutenant governor by adopting rules pursuant to chapter 91.

(b) The lieutenant governor may impose and collect the following administrative fines if a commissioner of deeds fails to do the following:

- (1) Maintain an official seal in accordance with section 503B-2(a)(1) and any rule adopted pursuant to chapter 91, \$20;
- (2) Surrender the seal and certificate of the commissioner of deeds to the lieutenant governor within ninety days of resignation, removal from office, or the expiration of a term without renewal, \$200;
- (3) Authenticate every acknowledgment or jurat with a certificate that is signed and dated by a commissioner and in a form prescribed by the lieutenant governor, \$500;
- (4) Record all of the transactions of the commissioner of deeds as prescribed by section 503B-4 and any rules adopted pursuant to chapter 91, \$200;
- (5) Surrender the record books of the commissioner of deeds to the lieutenant governor within ninety days of the expiration or termination of the commission, resignation, or removal from office, \$500;
- (6) Notify the lieutenant governor within ten days after loss, misplacement, or theft of the commissioner's seal or record book, or both, \$20; provided that, in the case of theft, the commissioner shall also:

- (A) Inform the appropriate local law enforcement agency of the theft within ten days of discovery of the theft or, if the theft occurs on a vessel, inform the vessel's captain of the theft within ten days of discovery of the theft;
- (B) Use reasonable efforts to obtain a copy of a report of the theft from the appropriate local law enforcement agency or, if the theft occurs on a vessel, from the vessel's captain or other officer; and
- (C) Deliver a copy of any report of the theft to the lieutenant governor within ten days after receipt thereof.

Administrative fines may be adjusted by the lieutenant governor by adopting rules pursuant to chapter 91.

(c) Moneys collected by the lieutenant governor pursuant to this section shall be deposited by the director of finance to the credit of the general fund.

**§503B-C Immunity.** (a) The lieutenant governor and employees of the office of the lieutenant governor shall be immune from liability for good faith conduct under this chapter.

(b) Notwithstanding any law to the contrary, nothing in this chapter shall be construed to constitute a waiver of any immunity of the State, and no action or failure to act under this chapter shall be construed to create any liability for the State or its officers or employees for the recovery of any damages caused by any action or failure to act."

SECTION 3. Section 503B-1, Hawaii Revised Statutes, is amended to read as follows:

**"[§503B-1] Commissioners; appointment.** The lieutenant governor may appoint commissioners who shall serve for four years from the date of the individual commissioner's respective appointment, unless removed by the lieutenant governor."

SECTION 4. Section 503B-3, Hawaii Revised Statutes, is amended to read as follows:

**"[§503B-3] Powers; charges.** A commissioner, in any foreign country; in international waters; and in any possession, territory, or commonwealth of the United States, including but not limited to the United States territorial seas, may administer oaths and take acknowledgments and proofs of execution of any deed, assignment of lease, apartment deed and ground lease, condominium conveyance document, mortgage, deed of trust, contract, power of attorney, or any other instrument or writing to be used or recorded in the State in connection with:

- (1) A time share interest;
- (2) Any property subject to a time share plan; or
- (3) The operation of a time share plan that includes any property located within the State;

provided that the instrument or writing is executed in international waters or in the United States territorial seas, or outside of the fifty states and the District of Columbia. Oaths, acknowledgments, and proofs of execution shall be taken or made in the manner provided by the laws of the State, including but not limited to sections 502-42, 502-43, 502-48, 502-61, 502-62, and 502-63, and shall be certified by the commissioner under the commissioner's official seal. The certifica-

tion shall be endorsed on or attached to the instrument or writing and shall have the same effect as if made or taken in the State by a notary public commissioned in the State. Charges made by commissioners for services rendered shall be no higher than the rates authorized by any law governing similar services rendered by notaries within the jurisdictions in which the services are performed~~[-]~~ or, if in international waters or in the United States territorial seas, no higher than the rates authorized to be charged by notaries in this State.

SECTION 5. Section 503B-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each commissioner forthwith and before entering upon the duties of the commissioner’s office shall execute at the commissioner’s own expense an official surety bond or deposit with the lieutenant governor a cash bond, which in either case shall be in the sum of ~~[\$1,000-]~~ \$10,000. Each bond shall be approved by the office of the lieutenant governor.”

SECTION 6. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$60,000 or so much thereof as may be necessary for fiscal year 2016-2017 for a commissioner of deeds specialist and expenses incurred by the office of the lieutenant governor related to establishing and administering the commissioners of deeds program.

The sum appropriated shall be expended by the office of the lieutenant governor for the purposes of this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 9. This Act shall take effect on July 1, 2016.

(Approved June 20, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 79**

H.B. NO. 2353

A Bill for an Act Relating to Exemptions from Civil Service.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The civil service to which this chapter applies shall comprise all positions in the State now existing or hereafter established and embrace all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii National Guard as such, and positions in the Hawaii National Guard that are required by state or federal laws or regulations or orders of the

National Guard to be filled from those commissioned or enlisted personnel;

- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
- (11) (A) Teachers, principals, vice-principals, complex area superintendents, deputy and assistant superintendents, other certificated personnel, not more than twenty noncertificated administra-

- tive, professional, and technical personnel not engaged in instructional work;
- (B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, alternative school project coordinators, and communications aides in the department of education;
- (C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and
- (D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor;
- (13) (A) Positions filled by inmates, patients of state institutions, persons with severe physical or mental disabilities participating in the work experience training programs;
- (B) Positions filled with students in accordance with guidelines for established state employment programs; and
- (C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;
- (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the Hawaii state constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that:



- (A) Any exemption created after July 1, 2014, shall expire three years after its enactment unless affirmatively extended by an act of the legislature; and
- (B) All of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during meal periods in the distribution, collection, and counting of meal tickets, and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the Hawaii public housing authority; provided that not more than twenty-six per cent of the authority's workforce in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
- (23) Positions filled by persons with severe disabilities who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
- (24) The sheriff;
- (25) A gender and other fairness coordinator hired by the judiciary; ~~and~~
- (26) Positions in the Hawaii National Guard youth and adult education programs[-]; and
- (27) In the state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 2. (a) The department of health may establish up to eighteen permanent or temporary exempt positions, known as forensic psychologists, to include one court examiner supervisor, to perform court ordered forensic examinations requiring a state designee, monitor individuals pursuant to a court order in the community, or coordinate forensic activities.

(b) The department of health may establish up to two permanent or temporary exempt positions, known as Hawaii state hospital primary care physicians, to serve as attending physicians for Hawaii state hospital patients.

(c) The permanent or temporary exempt positions established by this section shall be appointed by the director of health without regard to chapter 76, Hawaii Revised Statutes; provided that the exemptions shall expire three years after the effective date of this Act, unless affirmatively extended by an act of the legislature.

SECTION 3. Notwithstanding any other law to the contrary, including section 76-16(b)(17), Hawaii Revised Statutes, and unless affirmatively extended

by an act of the legislature, for a period of three calendar years commencing on the effective date of this Act, the following positions shall be exempt from the civil service requirements of chapter 76, Hawaii Revised Statutes:

- (1) In the Med-QUEST division of the department of human services: the division administrator, finance officer, health care services branch administrator, medical director, clinical standards administrator, and research/health analytics manager;
- (2) In the director's office of the department of human services: the community/project development director and policy director;
- (3) In the department of public safety: all psychologist positions;
- (4) In the correctional health care program of the department of public safety: the mental health branch administrator, mental health section administrators, and dentists; and
- (5) In the department of health adult mental health division: all physicians, dentists, forensic psychologist supervisors, and forensic psychologists.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved June 21, 2016.)

## ACT 80

H.B. NO. 2082

A Bill for an Act Relating to Adoption Records.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. To protect adopted children from the stigma of illegitimacy, states began sealing adoption records in the middle of the twentieth century. Although adoptees were generally allowed to access their own adoption records, states later began limiting adoptees' access to adoption records due to the prevailing idea that adopted children were better off if they were unaware of their adoption. However, current research has illustrated that the secrecy surrounding an adoption has significant negative psychological consequences on an adoptee. Furthermore, cultural changes have largely diminished the stigma surrounding adoption, and recent genetics research has highlighted the importance of genetic history to an individual's medical care.

Although the legislature eased restrictions for some adoptees to access adoption records in 1990, Hawaii's adoption records law continues to condition access to records on birthparent approval, which is a major hurdle for adoptees to overcome. Additionally, it is common for adoptees to pay a search agent approximately \$600 to locate birthparents who have moved since the adoption proceedings.

The legislature finds that countries with open access laws and other states that have restored open access to adoption records have not experienced significant negative consequences that critics predicted would befall birthparents who sought to retain anonymity. Furthermore, the substantial interest that an adoptee has in learning the adoptee's familial history outweighs any vague discomfort that could befall a birthparent.

The purpose of this Act is to provide adoptees of a certain age, adoptive parent, and natural parents unfettered access to the adoptees' adoption records.

SECTION 2. Section 578-15, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Upon the entry of the decree, or upon the later effective date of the decree, or upon the dismissal or discontinuance or other final disposition of the petition, the clerk of the court shall seal all records in the proceedings; provided that upon the written request of the petitioner or petitioners, the court may waive the requirement that the records be sealed. The seal shall not be broken and the records shall not be inspected by any person, including the parties to the proceedings, except:

- (1) Upon order of the family court upon a showing of good cause;
- (2) ~~[For adoptions which occurred prior to January 1, 1991, after]~~ After the adopted individual attains the age of eighteen and upon submission to the family court of a written request for inspection by the adopted individual or the adoptive parents ~~[in accordance with the following:~~

- (A) ~~Within sixty calendar days after receipt of a request for inspection, the family court, by certified mail with return receipt requested, shall mail to the last known address of each natural parent a notice of the request for inspection of adoption records, a copy of the request for inspection and copies of any accompanying letters, photographs, or other documents submitted in support of the request. The notice shall inform the natural parent that unless an affidavit signed by the natural parent requesting confidentiality is received by the family court within sixty calendar days of the date of receipt of the notice, the natural parent will be deemed to have waived any rights of confidentiality and the records shall be subject to inspection by the adopted individual or the adoptive parent who submitted the request. The notice shall also inform the natural parent that an affidavit requesting confidentiality for a period of ten years may be filed. A blank affidavit to be completed and signed by the natural parent shall be mailed with the notice;~~
- (B) ~~If the family court has received a return receipt for the notice but an affidavit requesting confidentiality is not received by the family court within sixty calendar days of the date of receipt of the notice, the family court shall allow inspection under this section;~~
- (C) ~~If the notice is returned as undeliverable to a natural parent, the family court shall designate an agent or agency to conduct a good faith and diligent search to locate the natural parent and to provide the notice and all other documents required under subparagraph (A). The search shall extend over a period not to exceed one hundred eighty calendar days. Contacts with natural parents by a designated agent or agency under this section shall be personal, whenever possible, and confidential. The family court shall provide the designated agent or agency with a copy of the request for inspection and copies of any accompanying letters, photographs, or other documents submitted in support of the request, and the designated agent or agency shall present the copies to the natural parent when contacted. The family court and the designated agent or agency shall ensure that no person other than a natural parent or the agent or agency through which a natural parent obtained assis-~~

- tance for the adoption is informed of the adoptive individual's existence and the relationship to the natural parent;
- (D) ~~If a natural parent cannot be located after the search conducted under subparagraph (C), the family court shall allow inspection under this section;~~
  - (E) ~~If an affidavit requesting confidentiality is received by the family court within sixty calendar days of the date of receipt of the notice provided under subparagraph (A) or (C), the family court shall not allow inspection during the effective period of the affidavit;~~
  - (F) ~~If a ten year affidavit is filed under subparagraph (E), the natural parent may refile affidavits every ten years thereafter to maintain confidentiality, or the natural parent may file an affidavit effective for the remainder of the natural parent's lifetime. All affidavits subsequent to the initial affidavit may be filed within ninety calendar days before the last effective day of the initial affidavit. If there is no effective affidavit on file with the family court at the time a request for inspection is received by the court, the court shall allow inspection under this paragraph;~~
  - (G) ~~An affidavit requesting confidentiality shall be effective until the last day of the period for which the affidavit was filed, until the natural parent revokes the affidavit, or until the natural parent is deceased, whichever occurs sooner; and~~
  - (H) ~~Where two natural parents are involved and confidentiality is waived under this paragraph by only one natural parent, the inspection of the records shall not include any identifying information concerning the other natural parent;~~
- (3) ~~For adoptions occurring after December 31, 1990, in accordance with the following:~~
    - (A) ~~Each natural parent shall be informed of the procedures required under this paragraph if the natural parent desires to maintain confidentiality after the adopted individual attains the age of eighteen;~~
    - (B) ~~Within ninety calendar days before the adopted individual attains the age of eighteen a natural parent may file an affidavit with the family court to request confidentiality and the natural parent may refile affidavits every ten years thereafter to maintain confidentiality or the natural parent may file an affidavit effective for the remainder of the natural parent's lifetime. All affidavits after the initial affidavit may be filed within ninety calendar days before the last effective day of the initial affidavit;~~
    - (C) ~~If a natural parent declines or fails to file an affidavit under subparagraph (B), the family court shall allow inspection of the record by the adopted individual or the adoptive parents at any time after the adopted individual has attained the age of eighteen; and~~
    - (D) ~~Where two natural parents are involved and confidentiality is waived under this paragraph by only one natural parent, the inspection of the records shall not include any identifying information concerning the other natural parent;~~
  - (4) ~~For all adoptions, regardless of date of occurrence, after the adopted individual attains the age of eighteen and upon submission to~~

the family court of a written request for inspection by a natural parent; provided that the adopted individual shall have the same rights and obligations applicable to natural parents under paragraphs (2) and (3), including rights of notice and opportunity to file affidavits requesting confidentiality.

- (5) For all adoptions, regardless of date of occurrence, after];
- (3) After the adopted individual attains the age of eighteen and upon submission [of an affidavit by a natural parent consenting to the inspection of records by the adoptee or an affidavit submitted by an adoptee consenting to the inspection of records] to the family court of a written request for inspection by the natural parents; [provided that where only one natural parent files an affidavit for consent, the inspection of records shall not include any identifying information concerning the other natural parent;
- (6)] (4) Upon request by the adopted individual or the adoptive parents for information contained in the records concerning ethnic background and necessary medical information[, notwithstanding any affidavit requesting confidentiality]; or
- [(7)] (5) Upon request by a natural parent for a copy of the original birth certificate.

As used in this subsection, "natural parent" means a biological mother or father, or a legal parent who is not also the biological parent."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.  
(Approved June 21, 2016.)

## ACT 81

H.B. NO. 27

A Bill for an Act Relating to Elections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to part VIII to be appropriately designated and to read as follows:

**"§11- Ballot images.** A voter shall not be prohibited from distributing or sharing an electronic or digital image of the voter's own marked ballot via social media or other means regardless of how the voter acquired the image; provided that this section shall not be a defense for any election offenses under chapter 19 or related offenses under the Penal Code."

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.  
(Approved June 21, 2016.)

### Note

- 1. Edited pursuant to HRS §23G-16.5.

## ACT 82

H.B. NO. 1705

A Bill for an Act Relating to Motor Vehicle Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that many motor vehicle insurance companies offer insurance documents through applications on mobile electronic devices. This electronic proof of coverage gives drivers a convenient, paperless way to display up-to-date insurance information.

The legislature further finds that more states are recognizing the widespread use of mobile technology and updating motor vehicle insurance laws accordingly. Currently, thirty-seven states permit drivers to use an electronic copy of their insurance card as valid proof of insurance. The acceptance of this technology has grown rapidly since March 2012, when Idaho became the first state in the country to accept electronic motor vehicle insurance cards.

The legislature concludes that owners and drivers of motor vehicles in Hawaii should also be provided with electronic options for proof of insurance.

Accordingly, the purpose of this Act is to allow electronic insurance cards, in addition to paper insurance cards, to be used as proof of insurance for motor vehicles, motorcycles, and motor scooters.

SECTION 2. Section 286-116, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every licensee shall have a valid driver’s license in the licensee’s immediate possession at all times, and a valid motor vehicle or liability insurance identification card applicable to the motor vehicle operated as required under section 431:10C-107 and section 431:10G-106, when operating a motor vehicle, and shall display the same upon demand of a police officer. Every police officer or law enforcement officer when stopping a vehicle or inspecting a vehicle for any reason shall demand that the driver or owner display the driver’s or owner’s driver’s license and insurance identification card.

Upon demand, the driver or owner may display the driver’s or owner’s electronic motor vehicle insurance identification card on a mobile electronic device, as defined in section 291C-137. For the purposes of this section, when a person uses a mobile electronic device to display an electronic motor vehicle insurance identification card to a police officer or law enforcement officer, the officer may only view the electronic motor vehicle insurance identification card and shall be otherwise prohibited from viewing any other content on the mobile electronic device. Whenever a person presents a mobile electronic device pursuant to this section, that person assumes all liability for any damage to the mobile electronic device.

No person charged with violating this section shall be convicted if the person produces in court, or proves from the proper official or other records that the person was the holder of a driver’s license or a motor vehicle or liability insurance identification card and policy conforming to article 10C and article 10G of chapter 431 or a certificate of self-insurance issued by the insurance commissioner pursuant to section 431:10C-107 and section 431:10G-103, theretofore issued to the person and valid at the time of the person’s arrest.”

SECTION 3. Section 431:10C-107, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Every insurer shall issue to its insureds a paper or electronic motor vehicle insurance identification card for each motor vehicle for which the

basic motor vehicle insurance coverage is written. The electronic motor vehicle insurance identification card may be accessed directly through the licensed insurer's website, application, or database. The identification card shall contain the following:

- (1) Name of make and factory or serial number of the motor vehicle; provided that insurers of five or more motor vehicles which are under common registered ownership and used in the regular course of business shall not be required to indicate the name of make and the factory or serial number of each motor vehicle;
  - (2) Policy number;
  - (3) Names of the insured and the insurer; and
  - (4) Effective dates of coverage including the expiration date.
- (b) The identification card shall be in the insured motor vehicle or accessible on a mobile electronic device, as defined in section 291C-137, at all times and shall be exhibited to a law enforcement officer upon demand."

SECTION 4. Section 431:10G-106, Hawaii Revised Statutes, is amended to read as follows:

**"§431:10G-106 Verification of insurance.** Every insurer shall issue to each of its insureds a paper or electronic proof of insurance card for each motorcycle or motor scooter for which a liability policy under this article is written. The electronic proof of insurance card may be accessed directly through the licensed insurer's website, application, or database. The proof of insurance card shall show the following:

- (1) Name, make, year, and factory or serial number of the motorcycle or motor scooter; provided that insurers of five or more motorcycles or motor scooters that are under common registered ownership and used in the regular course of business shall not be required to indicate the name, make, year, and the factory or serial number of each motorcycle or motor scooter;
- (2) Policy number;
- (3) Names of the insured and the insurer; and
- (4) Effective dates of coverage including the expiration date.

The proof of insurance card shall be carried on, or accessible on a mobile electronic device, as defined in section 291C-137, by the person operating the insured motorcycle or motor scooter at all times and shall be exhibited to a law enforcement officer upon demand."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2016.

(Approved June 21, 2016.)

## ACT 83

H.B. NO. 2281

A Bill for an Act Relating to Service by Publication in Paternity Cases.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 584-8, Hawaii Revised Statutes, is amended to read as follows:

**“§584-8 Jurisdiction; venue.** (a) Without limiting the jurisdiction of any other court, the family court has jurisdiction of an action brought under this chapter. The action may be joined with an action for divorce, annulment, separate maintenance, or support.

(b) A person who has sexual intercourse in this State thereby submits to the jurisdiction of the courts of this State as to an action brought under this chapter with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by statute, personal jurisdiction may be acquired by personal service outside this State or by service by certified or registered mail, postage prepaid, with return receipt requested.

(c) In addition to any other method of service provided by statute or court rule, if the [defendant] respondent is not found within the circuit, service may be effectuated by registered or certified mail, with request for a return receipt and direction to deliver to addressee only. The return receipt signed by the [defendant] respondent shall be prima facie evidence that the [defendant] respondent accepted delivery of the complaint and summons on the date set forth on the receipt. For service effectuated by registered or certified mail, an electronic copy or facsimile of the signature of the served individual on certified mailers provided by the United States Postal Service shall constitute valid proof of service on the individual. Actual receipt by the [defendant] respondent of the complaint and summons sent by registered or certified mail shall be the equivalent to personal service on the [defendant] respondent by an authorized process server as of the date of the receipt.

(d) If it appears that the respondent has refused to accept service by registered or certified mail or is concealing oneself or evading service, or the petitioner does not know the address or residence of the respondent and has not been able to ascertain the same after reasonable and due inquiry and search, the court may authorize notice of the paternity action and the time and date of hearing by publication or by any other manner that is reasonably calculated to give the party actual notice of proceedings and an opportunity to be heard, including the following:

- (1) When publication is authorized, the summons shall be published once a week for four consecutive weeks in a publication of general circulation in the circuit. The publication of general circulation shall be designated by the court in the order for publication of the summons. Notice by publication shall have the same force and effect as such person having been personally served with the summons; provided that the date of the last publication shall be set not less than twenty-one days prior to the return date stated in the summons. Proof of service shall be satisfied by an affidavit or declaration by the authorized representative for the publication that the notice was given in the manner prescribed by the court.
- (2) When posting to an online publication website is authorized, proof of service shall be satisfied by an affidavit or declaration by the au-



thorized representative for the publication that the notice was given in the manner prescribed by the court.

(3) When service by electronic mail or posting to a social networking account is authorized, proof of service shall be satisfied by an affidavit or declaration by the process server that the notice was given in the manner prescribed by the court.

(4) When service is made by posting to a public bulletin board, proof of service shall be satisfied by an affidavit or declaration by the process server that the notice was given in the manner prescribed by the court.

~~[(4)]~~ (e) The action may be brought in the county in which the child, the mother, or the alleged father resides or is found or in which the child was born or, if the father is deceased, in which proceedings for probate of ~~[[the father's]]~~ estate have been or could be commenced.

~~[(e)]~~ For service effectuated by registered or certified mail, an electronic copy or facsimile of the signature of the served individual on certified mailers provided by the United States Postal Service shall constitute valid proof of service on the individual.]”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 21, 2016.)

## ACT 84

H.B. NO. 2295

A Bill for an Act Relating to the Aerospace Advisory Committee.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 201-72.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established an aerospace advisory committee within the office of aerospace development of the department of business, economic development, and tourism for administrative purposes. The committee shall be composed of ~~[fifteen]~~ thirteen members appointed by the governor, as provided in section 26-34, except as otherwise provided in this section. Of the ~~[fifteen]~~ thirteen members:

(1) Three members shall be representatives of the aerospace industry. One member shall be appointed from a list of nominees submitted by the president of the senate, and one member shall be appointed from a list of nominees submitted by the speaker of the house of representatives;

(2) Three members shall be representatives of the aerospace industry in this State. One member shall be appointed from a list of nominees submitted by the president of the senate, and one member shall be appointed from a list of nominees submitted by the speaker of the house of representatives;

~~[(3)]~~ One member shall be a representative of investment banking;

~~[(4)]~~ (3) Four members shall represent the economic development boards of Kauai, Oahu, Maui, and Hawaii, respectively, to be appointed,

respectively, from a list of nominees submitted by each of these economic development boards; and

~~[(5)]~~ (4) Three members shall represent the University of Hawaii at Manoa, University of Hawaii at Hilo, and University of Hawaii community college system, respectively, to be appointed, one each, from a list of nominees submitted by the University of Hawaii at Manoa, University of Hawaii at Hilo, and University of Hawaii community college system, respectively~~[-and].~~

~~[(6) One member, not appointed under paragraphs (1) through (5) of this subsection, to serve as chairperson, who shall have experience, knowledge, and expertise in space-related activities and development in the global and state aerospace industry.]~~

The committee shall elect one of its members to serve as chairperson.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved June 21, 2016.)

## ACT 85

H.B. NO. 2311

A Bill for an Act Relating to Reporting Deaths to State Agencies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that some governmental agencies within the State that keep official lists of persons, in the ordinary course of the agency's activities, need to know when members on their lists have died so that they can, for example, discontinue providing benefits. Although section 338-18(g), Hawaii Revised Statutes, allows the department of health to verify information contained in vital statistics records by employing a process that matches its vital statistics information with information provided by agencies, that process cannot be used by state agencies whose lists are confidential under federal law.

The legislature also finds that it is unlawful for the department of health to disclose information contained in confidential vital statistics records, except as authorized by law. Allowing the department of health to report deaths to state agencies that maintain official lists that are confidential under federal law would assist state agencies to maximize the accuracy of their official lists and avoid overpaying benefits and wasting public funds.

SECTION 2. Act 27, Session Laws of Hawaii 2014, is amended by amending section 2 to read as follows:

“SECTION 2. Chapter 338, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§338- Deaths reported to state agencies. (a) Notwithstanding section 338-18, the department of health, within six weeks after the end of each quarter or other agreed upon period, shall deliver to a state agency a list of the names of all persons whose deaths have been recorded by the department during that period; provided that this section shall only apply to a state agency that:

- (1) Maintains official lists of persons in the ordinary course of the agency's activities and is prohibited by federal law from sharing information from the lists; and
- (2) Has requested the information from the department pursuant to a written agreement.

The list shall set forth the full name of the decedent ~~[and]~~, the dates of the decedent's birth and death, and the last four digits of the decedent's social security number, if known. The department and the requesting agency shall determine by agreement the form and format of providing the information to the agency.

(b) In response to an agency's first request pursuant to subsection (a), the department of health may provide a list of the persons whose deaths were recorded by the department during an agreed upon period in the past. The department may charge a reasonable fee to cover its cost of providing the list. If a state agency requires further information, the department may provide a certified copy of the death certificate to that state agency, subject to the fees required under section 338-14.5.

(c) Any state agency that obtains, pursuant to this section, a list of the names of persons whose deaths have been recorded by the department of health shall use the list only for the purposes for which it was obtained and shall not further disclose any information on the list.

(d) The department of health may develop and implement or assist with the development and implementation of a systems interface to electronically provide the information required pursuant to subsection (a) to a state agency."

SECTION 3. Act 27, Session Laws of Hawaii 2014, is amended by amending section 4 to read as follows:

"SECTION 4. This Act shall take effect upon its approval and shall be repealed on July 1, ~~[2016-]~~ 2018."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on June 30, 2016.

(Approved June 21, 2016.)

## ACT 86

H.B. NO. 2466

A Bill for an Act Relating to Non-General Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to address the distribution of cigarette tax revenues.

During the regular session of 2015, Act 238 was enacted to set maximum amounts on the distribution of cigarette tax revenues to various non-general funds, with the remainder to be deposited into the general fund. The legislature took this action to increase legislative oversight of agencies and programs supported by cigarette tax revenues, and subject those agencies and programs to competition for limited public funds by restricting their automatic share of cigarette tax revenues.

This Act expands the legislature's focus on the distribution of cigarette tax revenues. The legislature finds that focusing on the cigarette tax is impera-

tive because these tax revenues are declining, a laudable result of public health efforts. Consequently, evaluation of the future budgetary needs and funding of agencies and programs dependent on cigarette tax revenues should commence now.

The purpose of this Act is to require the department of health and department of budget and finance to jointly conduct a study of the distribution of the cigarette tax revenues.

SECTION 2. (a) The department of health and department of budget and finance shall jointly conduct a study on the distribution of the cigarette tax revenues.

(b) The study shall include the following:

- (1) Estimated total revenues derived from the cigarette tax through fiscal year 2024-2025;
- (2) Estimated distribution of cigarette tax revenues among the non-general funds specified in section 245-15(6), Hawaii Revised Statutes, through fiscal year 2024-2025;
- (3) Estimated budgetary needs of the agencies and programs supported by the non-general funds listed in section 245-15(6), Hawaii Revised Statutes, through fiscal year 2024-2025; and
- (4) Differences between the estimated budgetary needs of the agencies and programs under paragraph (3) and their estimated cigarette tax revenue distribution.

(c) The department of health and department of budget and finance shall include a recommendation in the study of whether to:

- (1) Continue the cigarette tax revenue distribution to the non-general funds, with or without modification; or
- (2) Re-distribute all or most of the cigarette tax revenues to the general fund and change the means of financing of affected agencies and programs to general funds.

SECTION 3. Upon the request of the department of health or the department of budget and finance for assistance and information, the department of taxation, and any other relevant executive department, shall cooperate with the department of health or department of budget and finance.

SECTION 4. The department of health and department of budget and finance shall submit the findings and recommendations of the study to the legislature and governor by November 1, 2016.

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved June 21, 2016.)

## ACT 87

H.B. NO. 2204

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to repeal the statutory provision that provides teachers and educational officers with annual increments or other longevity step increases. Salary increases and step increases are negotiated with teachers and educational officers pursuant to collective bargaining laws, and,

## ACT 88

therefore, specific provisions relating to annual increments and step increases are no longer necessary in the State's education laws.

SECTION 2. Section 302A-623, Hawaii Revised Statutes, is amended to read as follows:

~~“[§302A-623]~~ **Salary ranges, educational officers.** Salary ranges for educational officer positions of the department shall be determined by the board based on the position classification/compensation plan approved by the board. Salary ranges for educational officer positions shall be subject to the requirements of ~~[sections]~~ section 302A-625 ~~[and 302A-626].~~”

SECTION 3. Section 302A-703, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department shall develop a definition of “exemplary” in consultation with the appropriate collective bargaining representative.

Salary ranges and salary incentives for educational officer positions shall be subject to the requirements of ~~[sections]~~ section 302A-625 ~~[and 302A-626].~~”

SECTION 4. Section 302A-626, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 21, 2016.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 88

H.B. NO. 2343

A Bill for an Act Relating to Requirements for Child Care Providers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-151, Hawaii Revised Statutes, is amended by amending the definition of “child abuse record check” to read as follows:

““Child abuse record check” means an examination of an individual's child abuse confirmation history through:

- (1) An initial name inquiry into the state child welfare record files;
- (2) Subsequent child abuse confirmation history checks for new hires ~~[and], rehires[;], and household members;~~
- (3) ~~[An annual]~~ A name inquiry into state child welfare record files~~[-];~~ and
- (4) A name inquiry into other states' child abuse and neglect registries in states where the individual has resided during the past five years.”

SECTION 2. Section 346-152.5, Hawaii Revised Statutes, is amended to read as follows:

~~“§346-152.5 [Criminal history record checks, child abuse record checks, and adult abuse perpetrator checks] Requirements for persons exempt pursuant to section 346-152. (a) To be eligible to provide child care [and to receive] for a child whose family receives a child care subsidy from the department, persons exempt pursuant to section 346-152 shall be required to agree to [a]:~~

- ~~(1) A criminal history record check, a sex offender registry check, a child abuse record check, and an adult abuse perpetrator check in the same manner as a prospective applicant or licensed provider in accordance with section 346-154; provided that the criminal history record check shall be limited to a criminal history record check conducted through files maintained by the Hawaii criminal justice data center for the following relatives of the child who requires care: grandparents, great-grandparents, aunts, uncles, and siblings aged eighteen or older living in a separate residence [shall be required to agree to a criminal history record check conducted through files maintained by the Hawaii criminal justice data center, a child abuse record check, and an adult abuse perpetrator check.];~~
- ~~(2) Completion of a pre-service or orientation training and ongoing training in health and safety topics; and~~
- ~~(3) Any monitoring inspection visits by the department or its designee to determine compliance with minimum health and safety standards at the location where child care is being provided for a child whose family receives a child care subsidy from the department, including investigations by the department when the department has received a report of health and safety concerns.~~

~~(b) For the purposes of this section, “adult abuse perpetrator check” means a search to determine whether an individual is known to the department as a perpetrator of abuse as defined in section 346-222, by means of a search of the individual’s name and birth date in the department’s adult protective services file.”~~

SECTION 3. Section 346-153, Hawaii Revised Statutes, is amended to read as follows:

~~“[§346-153]]~~ **Records of deficiencies and complaints; release to public.**

For every child care facility, the department shall maintain records for the current and previous two years of: results of its inspections; notifications to providers of deficiencies; corrective action taken; complaints of violations of rules adopted under this part; results of its investigations; resolution of complaints; and suspensions, revocations, reinstatements, restorations, and reissuances of licenses, temporary permits, and registrations issued under this part. Notwithstanding any other law to the contrary, ~~[such records]~~ the records described in this section shall be available for inspection in the manner set forth in [section 92-51;] chapter 92F and may be posted by the department on a public website; provided that with respect to records of family child care homes and group child care homes, sensitive personal information, including home addresses, or information provided to the department with the understanding that it would not be publicly divulged shall be deleted or obliterated prior to making the records available to the public. Nothing in this section shall authorize the department to release the names of or any other identifying information on complainants. The department may withhold information on a complaint for which an investigation is being conducted for not more than ten working days following the date of filing of the complaint; provided that if an investigation relates to an alleged criminal offense, no information shall be released until the investigation has been

completed and the director has determined that no legal proceeding will be jeopardized by its release.”

SECTION 4. Section 346-154, Hawaii Revised Statutes, is amended to read as follows:

**“§346-154 ~~[Criminal history checks, child abuse record checks, and adult abuse perpetrator]~~ Background checks.** (a) The department shall develop standards to ensure the reputable and responsible character of an applicant to operate a child care facility, prospective employees of the applicant, household members, and new employees or household members of the provider after registration or licensure, which shall include criminal history record checks in accordance with section 846-2.7, sex offender registry checks, child abuse record checks, and adult abuse perpetrator checks.

For the purposes of this section, “adult abuse perpetrator check” means a search to determine whether an individual is known to the department as a perpetrator of abuse as defined in section 346-222, by means of a search of the individual’s name and birth date in the department’s adult protective services file.

(b) An applicant to operate a child care facility shall:

- (1) Be subject to criminal history record checks in accordance with section 846-2.7;
- (2) Submit to the department or its designee, under penalty of law, statements signed by the applicant ~~[and]~~, prospective employees of the applicant, and household members of the applicant indicating whether the applicant ~~[or]~~, any of the prospective employees, or any of the household members has ever been confirmed to have abused or neglected a child or vulnerable adult, including threatened harm; and
- (3) Provide consent to the department or its designee to conduct a criminal history record check in accordance with section 846-2.7, a sex offender registry check, a child abuse record check, and an adult abuse perpetrator check, and to obtain criminal history information, sex offender registry information, child abuse record information, and adult abuse perpetrator information for verification.

(c) A provider shall:

- (1) Be subject to criminal history record checks in accordance with section 846-2.7~~;~~ and sex offender registry checks;
- (2) Submit to the department or its designee a statement signed by any household member or any employee hired after the initial licensure or registration that requires the household member or employee to indicate, under penalty of law, whether the household member or employee has ever been confirmed to have abused or neglected a child or vulnerable adult, including threatened harm; and
- (3) Provide consent to the department or its designee to conduct a criminal history record check in accordance with section 846-2.7, a sex offender registry check, a child abuse record check, and an adult abuse perpetrator check, and to obtain criminal history information, sex offender registry information, child abuse record information, and adult abuse perpetrator check information for verification.

(d) The department or its designee shall obtain ~~[criminal]~~ information on the applicant, any household member, and any prospective employee of the applicant, including any household member or new employee retained after the applicant is issued a registration or license under this part, from the following sources:

- (1) Criminal history record information through the Hawaii criminal justice data center in accordance with section 846-2.7[5];
  - (2) National and state sex offender registries; and [child]
  - (3) Child abuse record information and adult abuse perpetrator check information from the department in accordance with departmental procedures ~~[on the applicant and any prospective employee of the applicant, including any new employee retained after the applicant is issued a registration or license under this part, which shall include an annual name inquiry into the state criminal history record files].~~
- (e) The department may deny an application for or revoke a license or registration to operate a child care facility if:
- (1) The applicant, a household member, or any prospective employee has been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less, or ever been confirmed to have abused or neglected a child or vulnerable adult~~[-including threatened harm]; [and] or~~
  - (2) The department finds that the criminal history, history of registration as a sex offender, or child abuse record or adult abuse perpetrator check record of that applicant, household member, or prospective employee indicates that the applicant, household member, or prospective employee may pose a risk to the health, safety, or well-being of children.
- (f) The department may request the provider to terminate the employment or residency of a new employee or household member or may suspend or revoke the license or registration of the provider who employs a new employee or who allows continued residency of a household member if:
- (1) The employee or household member has been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less, or ever been confirmed to have abused or neglected a child or vulnerable adult~~[-including threatened harm]; [and] or~~
  - (2) The department finds that the criminal history, history of registration as a sex offender, or child abuse record or adult abuse perpetrator check record of the new employee or household member indicates that the new employee or household member may pose a risk to the health, safety, or well-being of children.
- (g) The department shall deny an application for a license or registration, shall request the provider to terminate the employment or residency of a new employee or household member, or shall suspend or revoke the license or registration of the provider who employs a new employee or who allows continued residency of a household member if the applicant, employee, or household member:
- (1) Refuses to consent to the background checks;
  - (2) Knowingly makes a materially false statement in connection with the background checks; or
  - (3) Is registered, or required to be registered, on the national sex offender registry or any state sex offender registry.
- (h) The department or its designee, in obtaining and relying upon the background check information, is presumed to be acting in good faith and shall be immune from civil liability for taking or recommending action based upon the background check information. The presumption of good faith may be rebutted upon a showing of proof by a preponderance of the evidence that the department or its designee relied upon information or opinion that it knew was false or misleading or that such reliance was not reasonable."



SECTION 5. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) Criminal history record checks may be conducted by:
- (1) The department of health or its designee on operators of adult foster homes for individuals with developmental disabilities or developmental disabilities domiciliary homes and their employees, as provided by section 321-15.2;
  - (2) The department of health or its designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health or health care services as provided by section 321-171.5;
  - (3) The department of health or its designee on all applicants for licensure or certification for, operators for, prospective employees, adult volunteers, and all adults, except adults in care, at ~~[health care]~~ healthcare facilities as defined in section 321-15.2;
  - (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
  - (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
  - (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
  - (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
  - (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
  - (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
  - (10) The department of human services or its designee on applicants to operate child care facilities, household members of the applicant, prospective employees of the applicant, and new employees and household members of the provider after registration or licensure as provided by section 346-154[;], and persons subject to section 346-152.5;
  - (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
  - (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in community care foster family homes as provided by section 321-15.2;
  - (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
  - (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
  - (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;

- (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
- (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
- (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;
- (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;
- (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 321-15.2;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult protective and community services branch, as provided by section 346-97;
- (23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;
- (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
- (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
- (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
- (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
- (28) The department of commerce and consumer affairs on:
  - (A) Each principal of every non-corporate applicant for a money transmitter license; and

- (B) The executive officers, key shareholders, and managers in charge of a money transmitter's activities of every corporate applicant for a money transmitter license, as provided by sections 489D-9 and 489D-15;
- (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
- (30) The Hawaii health systems corporation on:
  - (A) Employees;
  - (B) Applicants seeking employment;
  - (C) Current or prospective members of the corporation board or regional system board; or
  - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;
- (31) The department of commerce and consumer affairs on:
  - (A) An applicant for a mortgage loan originator license; and
  - (B) Each control person, executive officer, director, general partner, and manager of an applicant for a mortgage loan originator company license, as provided by chapter 454F;
- (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;
- (33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;
- (34) The counties on prospective employees for fire department positions which involve contact with children or vulnerable adults;
- (35) The counties on prospective employees for emergency medical services positions which involve contact with children or vulnerable adults;
- (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable citizens during emergencies or crises;
- (37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;
- (38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;
- (39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information;
- (40) The department of commerce and consumer affairs on applicants for real estate appraiser licensure or certification as provided by chapter 466K;
- (41) The department of health or its designee on all license applicants, licensees, employees, contractors, and prospective employees of medical marijuana dispensaries, and individuals permitted to enter

- and remain in medical marijuana dispensary facilities as provided under sections 329D-15(a)(4) and 329D-16(a)(3); and
- (42) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law.”

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2016.

(Approved June 21, 2016.)

## ACT 89

H.B. NO. 1585

A Bill for an Act Relating to Guardianship.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 560:5-316, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) A guardian, without authorization of the court, ~~[may]~~ shall not ~~[revoke]~~:

- (1) Revoke any health care directions set forth in any medical directive or health care power of attorney of which the ward is the principal~~[-However,]; provided that~~ the appointment of a guardian shall automatically ~~[terminates]~~ terminate the authority of any agent designated in the medical directive or health care power of attorney~~[-]; or~~
- (2) Restrict the personal communication rights of the ward, including the right to receive visitors, telephone calls, and personal mail, unless deemed by the guardian to pose a risk to the safety or well-being of the ward.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 21, 2016.)

## ACT 90

S.B. NO. 2540

A Bill for an Act Relating to the Department of Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to address the development or expansion of a forensic facility of the department of health.

The legislature finds that the department of health is proposing to undertake the construction of a new building at the Hawaii state hospital. The new building is of high priority because of census and health and safety issues at the hospital. To expedite the development, the department of health and department of accounting and general services intend to use the design-build process.

However, the legislature finds that the department of health and department of accounting and general services may need more flexibility to move quickly.

Thus, the legislature authorizes the governor, through this Act, to negotiate directly with a person to develop or expand a forensic facility of the department of health. The legislature intends that the governor may negotiate and award a contract to develop or expand a forensic facility without necessity of compliance with the procurement code.

This Act is based on section 353-16.35, Hawaii Revised Statutes, under which the governor is authorized to negotiate the development or expansion of a correctional facility. Although that statute has never been used, it serves as a model for further expediting the construction of a new forensic facility for the department of health.

The legislature notes that this Act provides an extended review and comment period for an environmental assessment or environmental impact statement. The legislature has included this provision to balance the expedited development or expansion process by providing the opportunity for more public scrutiny of a proposed forensic facility.

SECTION 2. Chapter 334, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**“§334- Development or expansion of a forensic facility of the department of health.** (a) Notwithstanding any other law to the contrary, the governor, with the assistance of the director, may negotiate with any person for the development or expansion of a forensic facility of the department; provided that if an environmental assessment or environmental impact statement is required for a proposed site or for the expansion of the forensic facility under section 343-5, then notwithstanding the time periods specified for public review and comments under section 343-5, the governor shall accept public comments for a period of sixty days following public notification of either an environmental assessment or an environmental impact statement.

(b) Any development or expansion proposal shall address the construction of the forensic facility separate from the operation of the facility and shall consider and include:

- (1) The percentages of low, medium, and high risk patients;
- (2) The impact of the facility on existing infrastructure and an assessment of improvements and additions that will be necessary;
- (3) The impact of the facility on available modes of transportation, including airports, roads, and highways; and
- (4) A useful life costs analysis.

(c) For the purposes of this section:

“Forensic facility” means a facility that assesses and treats forensically committed persons.

“Useful life costs” means an economic evaluation that compares alternate building and operating methods and provides information on the design, construction methods, and materials to be used with respect to efficiency in building maintenance and facility operation.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 21, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 91

S.B. NO. 2823

A Bill for an Act Relating to the Hawaii Housing Finance and Development Corporation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 201H-2, Hawaii Revised Statutes, is amended to read as follows:

**“§201H-2 Hawaii housing finance and development corporation; establishment, staff.** (a) There is established the Hawaii housing finance and development corporation to be placed within the department of business, economic development, and tourism for administrative purposes only. The corporation shall be a public body and a body corporate and politic.

(b) The corporation shall employ, exempt from chapter 76 and section 26-35(a)(4), an executive director and an executive assistant. The executive director shall be paid a salary not to exceed ~~[eighty-five per cent of the salary of the director of human resources development.]~~ the salary of the director of business, economic development, and tourism. The executive assistant shall be paid a salary not to exceed ninety per cent of the executive director's salary. The corporation may employ, subject to chapter 76, technical experts and officers, agents, and employees, permanent and temporary, as required. The corporation may also employ officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, not subject to chapter 76, when in the determination of the corporation, the services to be performed are unique and essential to the execution of the functions of the corporation. The corporation may call upon the attorney general for legal services as it may require. The corporation may delegate to one or more of its agents or employees its powers and duties as it deems proper.

(c) The board shall submit a report to the legislature no later than twenty days prior to the convening of the regular session immediately following each adjustment of salary of the executive director.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved June 21, 2016.)

## ACT 92

S.B. NO. 2861

A Bill for an Act Relating to the Joint Formulary Advisory Committee.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the joint formulary advisory committee established by the department of commerce and consumer affairs should be repealed because it is obsolete and unnecessary in recommending the applicable formulary for advanced practice registered nurses with prescriptive authority.

The board of nursing is the authority that determines the qualifications and scope of practice of advanced practice registered nurses with prescriptive authority, and the board is already the authority that determines the applicable

formulary or exclusionary formulary for licensees under its authority. If necessary, the board of nursing may consult with other boards, such as the board of pharmacy or Hawaii medical board, on questions pertaining to prescription drugs. Other resources, such as the National Council of State Boards of Nursing, also have information on other states' nurse practice acts.

The purpose of this Act is to repeal the joint formulary advisory committee established by the department of commerce and consumer affairs.

SECTION 2. Section 457-8.6, Hawaii Revised Statutes, is amended to read as follows:

**"§457-8.6 Prescriptive authority for advanced practice registered nurses.**

(a) The board shall grant prescriptive authority to qualified advanced practice registered nurses and shall designate the requirements for advanced nursing practice related to prescriptive authority. The board shall determine the exclusionary formulary for qualified advanced practice registered nurses who are granted prescriptive authority.

~~[(b) The department of commerce and consumer affairs shall establish a joint formulary advisory committee composed of:~~

- ~~(1) Two persons licensed as advanced practice registered nurses and appointed by the board;~~
- ~~(2) Two persons licensed in medicine by the Hawaii medical board and appointed by the Hawaii medical board;~~
- ~~(3) Three persons licensed as pharmacists and appointed by the board of pharmacy;~~
- ~~(4) One representative of the University of Hawaii John A. Burns school of medicine appointed by the dean of the University of Hawaii John A. Burns school of medicine; and~~
- ~~(5) One representative from a school of nursing with an advanced practice registered nurse program.~~

~~The joint formulary advisory committee shall recommend the applicable formulary for persons recognized under this section. The board shall consider the recommendations of the joint formulary advisory committee in adopting the formulary.~~

~~(e)]~~ (b) The board shall establish requirements for advanced practice registered nurses' education, experience, and national certification pursuant to rules adopted in accordance with chapter 91.

~~[(d)]~~ (c) Advanced practice registered nurses shall be considered qualified if they have met the requirements of section 457-8.5(a), and have met the advanced pharmacology requirements for initial prescriptive authority pursuant to rules adopted by the board. Only qualified advanced practice registered nurses authorized to diagnose, prescribe, and institute therapy or referrals of patients to health care agencies, health care providers, and community resources and, only as appropriate to the practice specialty in which the advanced practice ~~[[registered]]~~ nurse is qualified, may:

- (1) Prescribe and administer over the counter drugs, legend drugs, and controlled substances pursuant to this chapter and to chapter 329 and request, receive, and dispense manufacturers' prepackaged samples of over the counter and non-controlled legend drugs to patients under their care; provided that an advanced practice registered nurse shall not request, receive, or sign for professional controlled substance samples;
- (2) Prescribe, order, and dispense medical devices and equipment; and

- (3) Plan and initiate a therapeutic regimen that includes nutritional, diagnostic, and supportive services including home health care, hospice, and physical and occupational therapy.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 21, 2016.)

## ACT 93

H.B. NO. 2389

A Bill for an Act Relating to the Federal Reimbursement Maximization Special Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 353C-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Moneys in the federal reimbursement maximization special fund shall be used by the department for the following purposes:

- (1) To meet the state match requirement for federal grants and costs associated with federal grant reporting requirements, including administrative expenses such as the hiring of temporary staff;
- (2) For any other purpose deemed necessary by the department for maintaining existing federal grants as well as pursuing federal grants;
- (3) To hire consultants to provide training for corrections officers;
- (4) To hire consultants to conduct facility or program evaluations;
- (5) To rent or purchase vehicles to transport inmates;
- (6) To provide pre-release and reentry programs;
- (7) To improve technology; and
- (8) ~~[To develop a plan for workforce recruitment and retention.]~~ To recruit and retain corrections workforce.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 21, 2016.)

## ACT 94

H.B. NO. 900

A Bill for an Act Relating to Medical Assistance Fraud.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-43.5, Hawaii Revised Statutes, is amended to read as follows:



~~“[§346-43.5] Medical assistance [frauds,] fraud; penalties. [It is unlawful for any person to]~~ (a) A person commits the offense of medical assistance fraud if:

- (1) ~~The person knowingly [and wilfully make] makes or [cause] causes to be made to the medical assistance program any false statement or representation of a material fact in any application for any benefit or payment for furnishing services or supplies, or for the purpose of obtaining greater compensation than that to which the person is legally entitled, or for the purpose of obtaining authorization for furnishing services or supplies[. Violation of this section shall be a class C felony. The enforcement of remedies provided under this section are not exclusive and shall not preclude the use of any other criminal or civil remedy]; or~~
- (2) The person knowingly makes or causes to be made any false statement or representation of a material fact in any application for any medical assistance benefit or renewal of any medical assistance benefit, or in any statement, document, or record, in written, printed, or electronic form, in support of, or connected with, that application for or renewal of medical assistance benefits.
- (b) A person convicted under subsection (a)(2) shall pay restitution equivalent to the amount of medical assistance benefits paid by the State on behalf of that person.
- (c) For purposes of this section, the term “medical assistance benefit” means health care coverage or services, including medical, behavioral health, dental, or long-term care services, provided to or paid for on behalf of a person by the State, regardless of source of funding. Payment for medical assistance benefits may be made through capitated payments, insurance premiums, co-payments, any payments made by the State to that person’s health care providers, and any other payments made by the State on behalf of the person for health care coverage or services.
- (d) The offense of medical assistance fraud is a class C felony.
- (e) The remedies provided under this section are not exclusive and shall not preclude the use of any other criminal or civil remedy.”

SECTION 2. Section 701-108, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

“(3) If the period prescribed in subsection (2) has expired, a prosecution may nevertheless be commenced for:

- (a) Any offense an element of which is ~~[either] fraud, deception[.]~~ as defined in section 708-800, or a breach of fiduciary obligation or the offense of medical assistance fraud under section 346-43.5, within three years after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is oneself not a party to the offense, but in no case shall this provision extend the period of limitation by more than six years from the expiration of the period of limitation prescribed in subsection (2);
- (b) Any offense based on misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years from the expiration of the period of limitation prescribed in subsection (2); and

- (c) Any felony offense involving evidence containing deoxyribonucleic acid from the offender, if a test confirming the presence of deoxyribonucleic acid is performed prior to expiration of the period of limitation prescribed in subsection (2), but in no case shall this provision extend the period of limitation by more than ten years from the expiration of the period of limitation prescribed in subsection (2)."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 21, 2016.)

## ACT 95

H.B. NO. 2093

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds for Goodwill Industries of Hawaii, Inc.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to part V of chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$20,000,000 in one or more series, for the purpose of assisting Goodwill Industries of Hawaii, Inc., a Hawaii not-for-profit corporation, and one or more of its not-for-profit affiliates in financing, refinancing, and reimbursing costs related to the:

- (1) Planning, acquisition, and construction of facilities including but not limited to improvements consisting of:
  - (A) A warehouse;
  - (B) Classrooms;
  - (C) Administrative offices;
  - (D) A retail outlet; and
  - (E) Training facilities;
- (2) Renovation of existing facilities;
- (3) Acquisition of:
  - (A) Equipment;
  - (B) Furnishings; and
  - (C) Apparatus;
- (4) Purchase of tangible assets including land and improvements;
- (5) Acquisition and installation of information technology; and
- (6) Completion of other capital improvement projects,

for the use of, or for, or to assist, Goodwill Industries of Hawaii, Inc., and any one or more of its not-for-profit affiliates in the conduct of its industrial enterprise activities in the State. The costs shall also include, without limitation, any costs that are necessarily or advisably incurred in order to provide assistance

or that are directly or indirectly related to any of the items enumerated in the preceding sentence. The legislature hereby finds and determines that the aforementioned activities and facilities of Goodwill Industries of Hawaii, Inc. and its not-for-profit affiliates constitute projects as defined in part V, chapter 39A, Hawaii Revised Statutes, and that the financing thereof constitutes assistance to an industrial enterprise.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2021, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 and to refund special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2021.

SECTION 6. This Act shall take effect on July 1, 2016.  
(Approved June 21, 2016.)

## ACT 96

H.B. NO. 2340

A Bill for an Act Relating to Criminal History Records Checks Under the Child Protective Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to amend the Child Protective Act, chapter 587A, Hawaii Revised Statutes, to allow the department of human services, when an assessment is required, to conduct criminal history record checks of alleged perpetrators of child abuse or neglect and all individuals who may reside in the same household with the alleged child victim, without consent, to better identify and address immediate and potential safety and risk factors.

SECTION 2. Chapter 587A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§587A- Authority to conduct criminal history record checks without consent.** When an assessment is required pursuant to this chapter, the department may conduct criminal history record checks, without consent, of an alleged perpetrator of harm or threat of harm and all adult household members to ensure the safety of the child.”

SECTION 3. Section 587A-9, Hawaii Revised Statutes, is amended by amending the title and subsection (a) to read as follows:

**“~~[[~~§587A-9~~]]~~ Temporary foster custody without court order.** (a) When the department receives protective custody of a child from the police, the department shall:

- (1) Assume temporary foster custody of the child if, in the discretion of the department, the department determines that the child is subject to imminent harm while in the custody of the child's family;
- (2) Make every reasonable effort to inform the child's parents of the actions taken, unless doing so would put another person at risk of harm;
- (3) Unless the child is admitted to a hospital or similar institution, place the child in emergency foster care while the department conducts an appropriate investigation, with placement preference being given to an approved relative;
- (4) With authorized agencies, make reasonable efforts to identify and notify all relatives within thirty days of assuming temporary foster custody of the child; and
- (5) Within three days, excluding Saturdays, Sundays, and holidays:
  - (A) Relinquish temporary foster custody, return the child to the child's parents, and proceed pursuant to section ~~[587A-11(3);]~~ 587A-11(4), ~~[or 587A-11(5);]~~ (5), or (6);
  - (B) Secure a voluntary placement agreement from the child's parents to place the child in foster care, and proceed pursuant to section ~~[587A-11(5) or 587A-11(7);]~~ 587A-11(6) or (8); or
  - (C) File a petition with the court.”

SECTION 4. Section 587A-11, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[~~§587A-11~~]]~~ Investigation; department powers.** Upon receiving a report that a child is subject to imminent harm, has been harmed, or is subject to threatened harm, and when an assessment is required by this chapter, the department shall cause such investigation to be made as it deems to be appropriate. In conducting the investigation, the department may:

- (1) Enlist the cooperation and assistance of appropriate state and federal law enforcement authorities, who may conduct an investigation and, if an investigation is conducted, shall provide the department with all preliminary findings, including the results of a criminal history record check of an alleged perpetrator of harm or threatened harm to the child;
- (2) Conduct a criminal history record check of an alleged perpetrator and all adults living in the family home, with or without consent, to ensure the safety of the child;
- ~~[(2)]~~ (3) Interview the child without the presence or prior approval of the child's family and temporarily assume protective custody of the child for the purpose of conducting the interview;
- ~~[(3)]~~ (4) Resolve the matter in an informal fashion that it deems appropriate under the circumstances;
- ~~[(4)]~~ (5) Close the matter if the department finds, after an assessment, that the child is residing with a caregiver who is willing and able to meet the child's needs and provide a safe and appropriate placement for the child;

- ~~[(5)]~~ (6) Immediately enter into a service plan:  
 (A) To safely maintain the child in the family home; or  
 (B) To place the child in voluntary foster care pursuant to a written agreement with the child's parent.

If the child is placed in voluntary foster care and the family does not successfully complete the service plan within three months after the date on which the department assumed physical custody of the child, the department shall file a petition. The department is not required to file a petition if the parents agree to adoption or legal guardianship of the child and the child's safety is ensured; provided that the adoption or legal guardianship hearing is conducted within six months of the date on which the department assumed physical custody of the child;

- ~~[(6)]~~ (7) Assume temporary foster custody of the child and file a petition with the court within three days, excluding Saturdays, Sundays, and holidays, after the date on which the department assumes temporary foster custody of the child, with placement preference being given to an approved relative; or  
~~[(7)]~~ (8) File a petition or ensure that a petition is filed by another appropriate authorized agency in court under this chapter."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.  
 (Approved June 21, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 97**

H.B. NO. 1756

A Bill for an Act Relating to Nursing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds there is a need to protect public safety by ensuring that licensed nurses are safe to practice and care for patients. While nearly all jurisdictions require applicants for nurse licensure to self-report any criminal history upon application for licensure, data reflects that many nurses with criminal histories fail to do so. According to information published by the National Council of State Boards of Nursing, there may be criminal history within the background of an applicant that could violate public trust and jeopardize the safety of patients.

The legislature further finds that the Council of State Governments recommends that each state work with its board of nursing to develop plans to conduct comprehensive federal and state criminal background checks as part of nurse licensure protocol. Of the fifty-five boards of nursing nationwide, currently Hawaii is one of only twelve states that do not conduct federal and state criminal background checks. The legislature finds that boards of nursing, employers, and other stakeholders need criminal history information to ensure that a nurse is safe and unlikely to harm patients.

Accordingly, the purpose of this Act is to:

- (1) Require all nurse licensure applicants, beginning with the July 1, 2017, licensing biennium, and all nurse license renewal and reactivation applicants, beginning with the July 1, 2019, licensing biennium, to comply with criminal history record checks; and
- (2) Authorize the state board of nursing to:
  - (A) Reactivate licenses and conduct investigations of applicants; and
  - (B) Request, beginning July 1, 2017, criminal history records of qualified applicants and request, no later than July 1, 2023, criminal history records required for licensees who were issued licenses prior to July 1, 2017.

SECTION 2. Section 457-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other powers and duties authorized by law, the board may:

- (1) Adopt, amend, or repeal rules, pursuant to chapter 91, not inconsistent with the law, as may be necessary to enable it to carry into effect this chapter, including the definition of the scope of practice of nursing and the delegation of nursing tasks based upon professional nursing standards, which include but are not limited to the standards set forth by national certifying bodies recognized by the board;
- (2) Prescribe standards for preparing persons for licensure as practical nurses, registered nurses, and advanced practice registered nurses under this chapter;
- (3) Conduct surveys of educational programs as it may deem necessary and practical;
- (4) Approve educational programs that meet the requirements of this chapter and the rules of the board;
- (5) Deny or withdraw approval of educational programs for failure to meet or maintain the standards prescribed in this chapter;
- (6) License qualified applicants by examination or endorsement, including advanced practice registered nurses, and renew, reinstate, reactivate, and restore licenses[;] and shall conduct an investigation of the qualified applicant’s background, character, competency, and integrity, as the board deems appropriate. The board shall:
  - (A) Request, beginning July 1, 2017, the criminal history records of qualified applicants, in accordance with section 846-2.7; and
  - (B) Request the criminal history records, pursuant to section 846-2.7, of licensees who were issued licenses by the board prior to July 1, 2017;  
provided that the board shall request criminal history records under this paragraph not less than once for each individual qualified applicant or licensee; provided further that all requests for criminal history records required for licensees issued a license by the board prior to July 1, 2017, shall be made by the board no later than July 1, 2023. The Hawaii criminal justice data center shall provide the information on request to the director of commerce and consumer affairs;
- (7) Conduct hearings upon request of a denied applicant or upon charges calling for discipline of a licensee;

- (8) Exercise the power to issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings;
- (9) Cause the prosecution of all persons violating this chapter and incur necessary expenses therefor;
- (10) Keep a record of all its proceedings;
- (11) Provide consultation, conduct conferences, forums, studies, and research on nursing education and practice;
- (12) Communicate with national organizations that promote the improvement of the legal standards of practice of nursing for the protection of public health, safety, and welfare;
- (13) Authorize the administration of examinations to eligible applicants for licensure as registered nurses or licensed practical nurses, or other examinations required by the board as designated in its rules;
- (14) Employ, contract, and cooperate, to the extent allowable by law, with any board-approved organization in the preparation and grading of an appropriate nationally uniform examination; provided the board shall retain sole discretion and responsibility for determining the standard of successful completion of such an examination. When such a national examination is used, access to questions and answers shall be restricted by the board; and
- (15) Develop and adopt rules as necessary relating to the practice of nursing in telehealth."

SECTION 3. Section 457-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) An applicant for a license to practice nursing as a registered nurse shall submit ~~[an]~~:

- (1) An application on a form prescribed by the board;
- (2) Beginning with the July 1, 2017, licensing biennium, a full set of electronic fingerprints for the purpose of obtaining federal and state criminal history record checks in accordance with section 846-2.7 directly to the Hawaii criminal justice data center for processing with the Federal Bureau of Investigation. The applicant shall bear the cost of the fingerprint processing and the application shall not be considered complete until the results of the criminal history record check have been received by the board; and ~~[shall provide written]~~
- (3) Written evidence that the applicant has completed a nursing program approved by the board."

SECTION 4. Section 457-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) An applicant for a license to practice nursing as a licensed practical nurse shall submit ~~[an]~~:

- (1) An application on a form prescribed by the board;
- (2) Beginning with the July 1, 2017, licensing biennium, a full set of electronic fingerprints for the purpose of obtaining federal and state criminal history record checks in accordance with section 846-2.7 directly to the Hawaii criminal justice data center for processing with the Federal Bureau of Investigation. The applicant shall bear the cost of the fingerprint processing and the application shall not be considered complete until the results of the criminal history

record check have been received by the board; and [shall provide written]

- (3) Written evidence that the applicant has completed a licensed practical nurse program, or its equivalent, approved by the board, and holds a diploma or certificate therefrom.”

SECTION 5. Section 457-8.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board shall grant an advanced practice registered nurse license to a nurse who has:

- (1) A current, unencumbered license as a registered nurse in this State;
- (2) An unencumbered license as a registered nurse in all other states in which the nurse has a current and active license;
- (3) An unencumbered license as an advanced practice registered nurse or similar designation in all other states in which the nurse has a current and active license as an advanced practice registered nurse;
- (4) Completed an accredited graduate-level education program preparing the nurse for one of the four recognized advanced practice registered nurse roles;
- (5) A current, unencumbered certification of having passed a national certification examination that measures role and population-focused competencies and is recognized by the board;
- (6) Maintained continued competencies through recertification in role and population-focused competencies through a national certification program recognized by the board;
- (7) Acquired advanced clinical knowledge and skills preparing the nurse to provide direct care to patients through a significant educational and practical concentration on the direct care of patients;
- (8) Demonstrated a greater breadth of knowledge, a greater synthesis of data, greater complexity of skills and interventions, and greater role autonomy than demonstrated by a registered nurse;
- (9) Been educationally prepared to assume responsibility and accountability for health promotion and maintenance and to assess, diagnose, and manage patient problems through the use and prescription of pharmacologic and non-pharmacologic interventions;
- (10) Acquired clinical experience of sufficient depth and breadth to reflect the intended license; [and]
- (11) Beginning with the July 1, 2017, licensing biennium, submitted a full set of electronic fingerprints for the purpose of obtaining federal and state criminal history record checks in accordance with section 846-2.7 directly to the Hawaii criminal justice data center for processing with the Federal Bureau of Investigation. The applicant shall bear the cost of the fingerprint processing and the application shall not be considered complete until the results of the criminal history record check have been received by the board; and
- [(11)] (12) Paid the appropriate fees.”

SECTION 6. Section 457-9, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The license of every person licensed or granted prescriptive authority shall expire on June 30 of every odd-numbered year and shall be renewed biennially, except as provided in this section. Biennially in each odd-numbered year, the board shall make available an application for renewal of license before the deadline set forth by the board to every person to whom a license was issued



or renewed during the biennium. The applicant shall complete the application and submit it to the board with a renewal fee, and shall also submit, beginning with the July 1, 2019, licensing biennium, a full set of electronic fingerprints for the purpose of obtaining federal and state criminal history record checks in accordance with section 846-2.7 directly to the Hawaii criminal justice data center for processing with the Federal Bureau of Investigation. The applicant shall bear the cost of the fingerprint processing and the application shall not be considered complete until the results of the criminal history record check has been received by the board; and all required documents on or before the deadline set by the board. The applicant shall provide documents from proper agencies or parties of any criminal conviction or any disciplinary action taken or pending in this State or any other state in the United States or any territory or possession under the jurisdiction of the United States within the two years prior to application for renewal of license. Upon receipt of the application and fee, the board shall verify the accuracy of the application and issue to the applicant a certificate of renewal for the biennium expiring two years hence on the deadline set by the board. The renewal shall render the holder thereof a legal practitioner of nursing for the period stated on the renewal form.

(b) Any licensee who fails to renew a license as provided in subsection (a) but continues to practice shall be considered an illegal practitioner and shall be subject to the penalties provided for violations of this chapter. The failure to timely renew a license, the failure to pay all applicable fees, the dishonoring of any check upon first deposit, or the failure to comply with any other requirement provided by law shall cause the license to be automatically forfeited; provided that the person's license may be restored by the board within two years after the date of forfeiture upon compliance with the licensing renewal fees, penalty fees, and compliance resolution fund fees.

A nurse who does not intend to practice nursing in the State and elects to be placed on inactive status shall so indicate in writing during the license renewal period or by so indicating on the license renewal application, and paying inactivation and all appropriate fees. Should the nurse wish to resume nursing at some future time, the nurse shall notify the board in writing and remit the reactivation and renewal fees [and]; submit an application form as provided in subsection (a)[-]; and beginning with the July 1, 2019, licensing biennium, submit a full set of electronic fingerprints for the purpose of obtaining federal and state criminal history record checks in accordance with section 846-2.7 directly to the Hawaii criminal justice data center for processing with the Federal Bureau of Investigation. The applicant shall bear the cost of the fingerprint processing and the application shall not be considered complete until the results of the criminal history record check has been received by the board. A nurse who has not actively practiced in this State or any other state in the United States or any territory or possession under the jurisdiction of the United States for more than five years may be required by the board to submit proof of continued competency by retaking and passing the licensing examination or successfully completing appropriate continuing education recognized by the board."

SECTION 7. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Criminal history record checks may be conducted by:

- (1) The department of health or its designee on operators of adult foster homes for individuals with developmental disabilities or developmental disabilities domiciliary homes and their employees, as provided by section 321-15.2;

- (2) The department of health or its designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health or health care services as provided by section 321-171.5;
- (3) The department of health or its designee on all applicants for licensure or certification for, operators for, prospective employees, adult volunteers, and all adults, except adults in care, at health care facilities as defined in section 321-15.2;
- (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
- (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
- (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
- (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
- (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
- (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
- (10) The department of human services on applicants to operate child care facilities, prospective employees of the applicant, and new employees of the provider after registration or licensure as provided by section 346-154;
- (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
- (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in community care foster family homes as provided by section 321-15.2;
- (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
- (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
- (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
- (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
- (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
- (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated

organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;

- (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;
- (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 321-15.2;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult protective and community services branch, as provided by section 346-97;
- (23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;
- (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
- (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
- (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
- (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
- (28) The department of commerce and consumer affairs on:
  - (A) Each principal of every non-corporate applicant for a money transmitter license; and
  - (B) The executive officers, key shareholders, and managers in charge of a money transmitter's activities of every corporate applicant for a money transmitter license,as provided by sections 489D-9 and 489D-15;
- (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
- (30) The Hawaii health systems corporation on:
  - (A) Employees;
  - (B) Applicants seeking employment;
  - (C) Current or prospective members of the corporation board or regional system board; or

- (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;
- (31) The department of commerce and consumer affairs on:
- (A) An applicant for a mortgage loan originator license; and
  - (B) Each control person, executive officer, director, general partner, and manager of an applicant for a mortgage loan originator company license,
- as provided by chapter 454F;
- (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;
- (33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;
- (34) The counties on prospective employees for fire department positions which involve contact with children or vulnerable adults;
- (35) The counties on prospective employees for emergency medical services positions which involve contact with children or vulnerable adults;
- (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable citizens during emergencies or crises;
- (37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;
- (38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;
- (39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information;
- (40) The department of commerce and consumer affairs on applicants for real estate appraiser licensure or certification as provided by chapter 466K;
- (41) The department of health or its designee on all license applicants, licensees, employees, contractors, and prospective employees of medical marijuana dispensaries, and individuals permitted to enter and remain in medical marijuana dispensary facilities as provided under sections 329D-15(a)(4) and 329D-16(a)(3); ~~and~~
- (42) The department of commerce and consumer affairs on applicants for nurse licensure or license renewal, reactivation, or restoration as provided by sections 457-7, 457-8, 457-8.5, and 457-9; and
- ~~[(42)]~~ (43) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law."

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2016.

(Approved June 21, 2016.)

ACT 98

H.B. NO. 2231

A Bill for an Act Relating to Energy Cooperatives.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to clarify that special purpose revenue bonds issued pursuant to part VI of chapter 39A, Hawaii Revised Statutes, may be used to finance publicly owned energy cooperatives.

SECTION 2. Section 39A-191, Hawaii Revised Statutes, is amended by amending the definitions of "energy project" and "project party" to read as follows:

"Energy project" means any facilities for each single project or multi-project program of a project party, including a publicly owned energy cooperative, which is certified by the public utilities commission as being for the local furnishing of electric energy or gas; provided that any new generating unit for the production or generation of electric energy from fossil fuels shall not be considered an energy project for purposes of this part unless specifically authorized in any act providing for the authorization of the issuance of bonds pursuant to this part.

"Project party" means an electric or gas utility, including a publicly owned energy cooperative, serving the general public and that is regulated by the public utilities commission under chapter 269, or a telecommunications carrier or telecommunications common carrier, whether or not subject to regulation by the public utilities commission under chapter 269."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved June 21, 2016.)

ACT 99

H.B. NO. 901

A Bill for an Act Relating to Law Enforcement Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291-31.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No person shall knowingly operate, affix or cause to be affixed, display, or possess any lamp, reflector, or illumination device that appears to be the color blue, or colors blue and red, upon any motor vehicle, motorcycle, motor scooter, bicycle, or moped except for:

- (1) County law enforcement vehicles authorized and approved by the chief of police of the county in which the vehicle is operated;

- (2) Department of public safety law enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the director of public safety; ~~or~~
- (3) Department of land and natural resources division of conservation and resources enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the chairperson of the board of land and natural resources~~[-]; or~~
- (4) Department of transportation division of harbors law enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the director of transportation.

This prohibition shall not apply to factory-installed instrument illumination.”

SECTION 2. Section 291C-1, Hawaii Revised Statutes, is amended by amending the definition of “authorized emergency vehicle” to read as follows:

““Authorized emergency vehicle” includes fire department vehicles, police vehicles, ambulances, ocean safety vehicles, public safety law enforcement vehicles, ~~[and] conservation and resources enforcement vehicles, and department of transportation division of harbors law enforcement vehicles~~ authorized and approved pursuant to section 291-31.5 that are publicly owned and other publicly or privately owned vehicles designated as such by a county council.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 21, 2016.)

## ACT 100

H.B. NO. 1011

A Bill for an Act Relating to the Traffic Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the number of motor vehicles using wheels with a propensity to cause severe injury and property damage has increased. By design, most of these wheels have parts that extend past their rim, including gorilla pokes, superpoke elbows, and giraffe necks; however, others not designed as such are just as dangerous due to the addition of aftermarket parts, such as lug nuts and wheel covers that bear sharp, pointed projections.

The legislature further finds that existing law does not address the inherent dangers associated with the use of this type of motor vehicle wheel.

The purpose of this Act is to prohibit the use of certain types of motor vehicle wheels that are considered dangerous.

SECTION 2. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new section to part XII to be appropriately designated and to read as follows:

**“§291C- Dangerous wheels; prohibited.** No person shall operate a vehicle, trailer, or semi-trailer equipped with dangerous wheels.”

SECTION 3. Section 291C-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“‘Dangerous wheels’ means any wheel, wheel cover, hubcap, lug nut cover or cap, prong, or any ornamentation affixed to any of the aforementioned items that extends at least four inches beyond the portion of the wheel rim that extends furthest away from the vehicle and that may cause injury or property damage by minimal contact with a person or object.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved June 21, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 101**

**H.B. NO. 2017**

**A Bill for an Act Relating to Workers’ Compensation Treatment Plans.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Hawaii’s current system for physicians to submit treatment plans in workers’ compensation claims is in need of modernization given advancements in technology. The legislature further finds that allowing treatment plans to be faxed will greatly improve the efficiency of Hawaii’s workers’ compensation system. This first step will assist in making the system better while the department of labor and industrial relations completes the studies of the system that were previously requested by the legislature.

The purpose of this Act is to improve the efficiency of Hawaii’s workers’ compensation system by permitting an option for the transmittal of treatment plans via facsimile.

SECTION 2. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§386- Treatment plans.** (a) A physician may transmit a treatment plan to an employer by mail or facsimile; provided that the physician shall send the treatment plan to an address or facsimile number provided by the employer.

(b) Beginning January 1, 2021, an employer shall allow a physician to transmit a treatment plan to an employer by mail, facsimile, or secure electronic means; provided that the physician shall send the treatment plan to an address or facsimile number provided by the employer.

(c) A treatment plan shall be deemed received by an employer when the plan is sent by mail or facsimile with reasonable evidence showing that the treatment plan was received.

(d) A treatment plan shall be deemed accepted if an employer fails to file with the director:

- (1) An objection to the treatment plan;
- (2) Any applicable documentary evidence supporting the denial; and
- (3) A copy of the denied treatment plan, copying the physician and the injured employee.

(e) After acceptance of the treatment plan, an employer may file an objection to the plan if new documentary evidence supporting the denial is received by the employer."

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 21, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 102

H.B. NO. 2675

A Bill for an Act Relating to Rapid Ohia Death.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the ohia is Hawaii's most common and widespread native tree. Ohia trees can be found at sea level and up to elevations of twenty-five hundred meters. The trees provide critical habitats for rare and endangered native birds and insects.

In recent years, the disease known as rapid ohia death, caused by the non-native fungal pathogen *Ceratocystis fimbriata*, has been killing ohia trees in the forests and residential areas of Puna and Hilo on the island of Hawaii. When infected, the crown of an ohia tree first turns yellow, and then brown within a few days or weeks. The fungal pathogen progresses up the stem of the tree and manifests as a dark staining in the sapwood along the outer margin of the trunk. Landowners have noticed that when healthy-looking trees begin exhibiting symptoms, the trees die in a matter of weeks.

As of 2014, approximately fifteen thousand acres on the island of Hawaii have shown greater than fifty per cent mortality from rapid ohia death. Recent estimates have found that the disease has affected thirty thousand acres on the island of Hawaii.

The exact transmittal methods of *Ceratocystis fimbriata* have not yet been determined. However, researchers believe that the fungus can be transmitted by feral animals, insects, soil, water, infected cuttings, unsanitized pruning tools, and muddy vehicles. There is no treatment that can protect ohia trees from rapid ohia death, and there is no cure for infected trees.

The legislature finds that rapid ohia death has the potential to destroy ohia trees statewide. The loss of ohia trees would be catastrophic to the diversity, structure, and function of the State's remaining native forests.



Researchers of the United States Department of Agriculture, the University of Hawaii, and other organizations have made progress in combating rapid ohia death, including isolating the fungal pathogen, researching alternative hosts for the pathogen, eliminating other causes for the ohia tree deaths, and making recommendations on preventing the spread of the disease. However, the researchers require additional funding to continue their work.

The purpose of this Act is to appropriate funds to combat rapid ohia death. The funding will help to continue pathology research by the Agricultural Research Service of the United States Department of Agriculture and other organizations.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2016-2017 for rapid ohia death research, including the employment of pathology post-doctoral fellows, technical support for pathology research, materials and supplies for pathogen and molecular detection, and a new growth chamber for pathology experiments.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved June 21, 2016.)

## ACT 103

H.B. NO. 2657

A Bill for an Act Relating to Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 387, Session Laws of Hawaii 1988, is amended as follows:

1. By amending section 1 to read:

“SECTION 1. The legislature finds that the economy of the island of Molokai ~~[is] remains~~ at a critical juncture. ~~[The residents have long relied on the pineapple industry as the major provider of jobs; however, since]~~ Since the closure of Dole Company’s operations in 1976 and the reduction of Del Monte’s operations in 1983, hundreds of Molokai residents have been jobless and the island’s unemployment rate ~~[at over fourteen per cent]~~ is more than twice the rate of any other island and the highest in the State. The legislature further finds that the revival of Molokai’s economy is contingent on the development and growth of small businesses, especially in diversified agriculture, and that it is the public interest to provide financial support to facilitate such development and growth on Molokai. Further, the legislature finds that the costs that farmers and ranchers must incur to comply with federal and state requirements, including the food safety requirements of the United States Food and Drug Administration (FDA) Food Safety Modernization Act, are prohibitive to some farmers and ranchers and will likely result in farm and ranch closures on Molokai. These farmers and ranchers require assistance with meeting these compliance costs to prevent such closures and the detrimental effect they will have on the diversified agricultural industry on Molokai. The purpose of this Act is to establish a [revolving loan] cost reimbursement program to stimulate business development and growth in diversified agriculture on the island of Molokai[-] and provide cost reimbursement to farmers and ranchers on Molokai to cover the costs, including audit costs and other expenses, of complying with the FDA Food Safety Modernization Act and state food safety laws.”

## 2. By amending section 3 to read:

"SECTION 3. (a) The county of Maui shall establish a temporary ~~[revolving loan]~~ cost reimbursement program to provide ~~[financing opportunities]~~ for small business ventures that are in diversified agriculture [on Molokai] and cost reimbursement to farmers and ranchers on Molokai to help them meet the costs, including audit costs and other expenses, of compliance with the requirements of the FDA Food Safety Modernization Act and state food safety laws. To carry out the ~~[loan]~~ cost reimbursement program, the county shall establish a ~~[revolving]~~ fund from which moneys shall be ~~[loaned]~~ expended to provide cost reimbursements in accordance with this Act ~~[and into which all payments, interest, and fees collected by the county on such loans shall be deposited].~~

(b) The program shall provide ~~[loans]~~ cost reimbursement to qualified applicants with the following terms and conditions:

- (1) No ~~[loan]~~ cost reimbursement shall be granted unless ~~[financial assistance is not otherwise available to the applicant;]~~ money has been spent by the applicant toward complying with the FDA Food Safety Modernization Act or state food safety laws;
- (2) The total amount of ~~[a loan or loans]~~ cost reimbursement to any one applicant ~~[at any one time]~~ shall not exceed ~~[\$150,000;]~~ \$5,000; and
- (3) ~~[The maximum term of a loan]~~ No cost reimbursement shall ~~[not exceed twenty years;]~~ be allowed for costs that were incurred more than five years prior to the time the application for cost reimbursement is received by the county of Maui.
- (4) Each loan shall bear interest conforming to the department of agriculture's "Agricultural Loans" rate, policies, and practices; and
- (5) The commencement date for the repayment of the first installment on the principal and interest of each loan may be deferred by the mayor of the county of Maui for a period not to exceed two years.]

(c) The program shall be administered by the county of Maui. The county of Maui, in consultation with the department of agriculture, shall adopt rules to carry out the program's purpose. ~~[The loan applications shall be reviewed initially by the credit review committee of the Molokai task force. The committee shall make recommendations regarding the suitability of the proposed business concepts. The county of Maui shall make the final decision to approve or disapprove the application.]~~ The cost reimbursement applications shall be reviewed and approved by an administrative staff member within the county of Maui."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved June 21, 2016.)

## ACT 104

H.B. NO. 2317

A Bill for an Act Making an Appropriation to the Emergency And Budget Reserve Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000,000 or so much thereof as may be neces-

## ACT 105

sary for fiscal year 2016-2017 for the purpose of further capitalizing the emergency and budget reserve fund. The sums appropriated shall be deposited into the emergency and budget reserve fund established pursuant to section 328L-3, Hawaii Revised Statutes, by the department of budget and finance for the purposes of this Act.

SECTION 2. This Act shall take effect on July 1, 2016.

(Approved June 21, 2016.)

## ACT 105

H.B. NO. 2121

A Bill for an Act Relating to Legal Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$750,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the judiciary to purchase civil legal services for low- and moderate-income persons, pursuant to section 7 of Act 138, Session Laws of Hawaii 2015.

The sum appropriated shall be expended by the judiciary for the purposes of this Act.

SECTION 2. This Act shall take effect on July 1, 2016.

(Approved June 21, 2016.)

## ACT 106

H.B. NO. 2582

A Bill for an Act Relating to Food Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 141, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§141- Agricultural food safety certification program.** (a) There is established within the department of agriculture an agricultural food safety certification program. The program shall:

- (1) Develop and implement a certification system that shall at a minimum comply with the requirements of the FDA Food Safety Modernization Act;
- (2) Support the agricultural industry and assist farmers and ranchers subject to the requirements of the FDA Food Safety Modernization Act by developing and implementing a food safety certification program that will concurrently satisfy the requirements of the department of agriculture and the FDA Food Safety Modernization Act;
- (3) Conduct research into alternative, less burdensome methods by which Hawaii's farmers and ranchers can satisfy the requirements of the FDA Food Safety Modernization Act;

- (4) Establish an education program, including on-line classes, that addresses compliance with state and federal food safety requirements for farmers and ranchers;
  - (5) Serve as an information clearinghouse for all matters related to the FDA Food Safety Modernization Act and any other food safety laws; and
  - (6) Undertake activities to improve and sustain the safety of agricultural foods and other functions as may be assigned by law.
- (b) The chairperson of the board of agriculture may employ:
- (1) One program manager and one specialist, who are qualified to apply the provisions and requirements of the FDA Food Safety Modernization Act to the program; and
  - (2) One clerical staff person.
- (c) For purposes of this section, "agricultural food" includes food that is applicable to farmers and ranchers under the FDA Food Safety Modernization Act."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$200,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the following positions in the agricultural food safety certification program of the department of agriculture:

- (1) One full-time equivalent (1.0 FTE) program manager;
- (2) One full-time equivalent (1.0 FTE) specialist; and
- (3) One full-time equivalent (1.0 FTE) clerical staff.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved June 21, 2016.)

**Note**

- 1. Edited pursuant to HRS §23G-16.5.

**ACT 107**

S.B. NO. 1311

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that licensure for the practice of behavior analysis in Hawaii is needed for the public's health, safety, and welfare. Act 199, Session Laws of Hawaii 2015, codified as chapter 465D, Hawaii Revised Statutes, established standards for the licensing of behavior analysts to address the present and critical need to ensure that persons requiring diagnosis and treatment for autism receive the care they need. Act 199 recognized that behavior analysts and the practice of behavior analysis should be subject to regulation and control to protect the public from unqualified practitioners and from unprofessional conduct. The legislature finds that licensure of behavior analysts is necessary for both client protection and access to services.

While ensuring the provision of quality services by properly trained providers is of the utmost importance, the State's current credentialed workforce is inadequate to meet present needs. Thus, policies that ensure that a qualified workforce can continue to provide necessary behavior interventions while simultaneously facilitating efforts to build an adequate workforce of credentialed paraprofessionals and licensed professionals to implement behavior plans are imperative.

The purpose of this Act is to ensure that behavioral services continue to be available for clients who depend on them while facilitating the long-term development of an adequate professional and paraprofessional workforce.

SECTION 2. Section 465D-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This chapter is not intended to restrict the practice of other licensed or credentialed ~~healthcare~~ practitioners practicing within their own recognized scopes of practice and shall not apply to:

- (1) An individual working within the scope of practice or duties of another licensed profession that overlaps with the practice of behavior analysis; provided that the person does not purport to be a behavior analyst;
- (2) An individual who implements or designs applied behavior analysis services and possesses board certification as an assistant behavior analyst by the Behavior Analyst Certification Board and who practices in accordance with the most recent supervisory and ethical requirements adopted by the Behavior Analyst Certification Board under the direction of a behavior analyst licensed in this State;
- (3) An individual who directly implements applied behavior analysis services~~[-is]~~ and
  - (A) Is credentialed as a registered behavior technician by the Behavior Analyst Certification Board, and is under the direction of a behavior analyst licensed in this State; or
  - (B) Is a direct support worker who provides autism treatment services pursuant to an individualized education plan on or before January 1, 2019;

provided that for purposes of this paragraph, "direct support worker" means a teacher or paraprofessional who directly implements intervention or assessment plans under supervision and does not design intervention or assessment plans;
- (4) A family member or legal guardian implementing an applied behavior analysis plan ~~[within the home]~~ and who acts under the direction of a behavior analyst licensed in this State;
- (5) An individual who engages in the practice of behavior analysis with nonhuman or nonpatient clients or consumers including but not limited to applied animal behaviorists and practitioners of organizational behavior management;
- (6) A matriculated graduate student or postdoctoral fellow whose activities are part of a defined behavior analysis program of study, practicum, or intensive practicum; provided that the student's or fellow's activities or practice is directly supervised by a behavior analyst licensed in this State or an instructor in a Behavior Analyst Certification Board-approved course sequence; or
- (7) An individual pursuing experience in behavior analysis consistent with the Behavior Analyst Certification Board's experience require-

ments; provided that the experience is supervised by a behavior analyst licensed in this State.”

SECTION 3. The department of education shall submit a report to the legislature prior to the convening of the regular sessions of 2017 and 2018 on its plans and progress in implementing measures to comply with the licensure and certification requirements of chapter 465D, Hawaii Revised Statutes.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved June 22, 2016.)

## ACT 108

S.B. NO. 2954

A Bill for an Act Relating to Firearms.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that criminal background checks on firearms applicants are critical to ensure the safety of the community.

The rap back system is a service of the Federal Bureau of Investigation that provides continuous criminal record monitoring for authorized government agencies, including law enforcement agencies, and notifies them when an individual subject to a criminal history record check is arrested for a criminal offense anywhere in the country. This notification will allow county police departments in Hawaii to evaluate if the owner of a firearm may continue to legally possess and own firearms.

The purpose of this Act is to authorize county police departments in Hawaii to enroll firearms applicants and individuals who are registering their firearms into the rap back system.

SECTION 2. Section 134-2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (e) to read:

“(e) The permit application form shall be signed by the applicant and by the issuing authority. One copy of the permit shall be retained by the issuing authority as a permanent official record. Except for sales to dealers licensed under section 134-31, or dealers licensed by the United States Department of Justice, or law enforcement officers, or where a license is granted under section 134-9, or where any firearm is registered pursuant to section 134-3(a), no permit shall be issued to an applicant earlier than fourteen calendar days after the date of the application; provided that a permit shall be issued or the application denied before the twentieth day from the date of application. Permits issued to acquire any pistol or revolver shall be void unless used within ten days after the date of issue. Permits to acquire a pistol or revolver shall require a separate application and permit for each transaction. Permits issued to acquire any rifle or shotgun shall entitle the permittee to make subsequent purchases of rifles or shotguns for a period of one year from the date of issue without a separate application and permit for each acquisition, subject to the disqualifications under section 134-7 and subject to revocation under section 134-13; provided that if a permittee is arrested for committing a felony or any crime of violence or for the illegal sale

of any drug, the permit shall be impounded and shall be surrendered to the issuing authority. The issuing authority shall perform an inquiry on an applicant ~~[who is a citizen of the United States by using the National Instant Criminal Background Check System]~~ by using the International Justice and Public Safety Network, including the United States Immigration and Customs Enforcement query, the National Crime Information Center, and the National Instant Criminal Background Check System, pursuant to section 846-2.7 before any determination to issue a permit or to deny an application is made. ~~[If the applicant is not a citizen of the United States and may be eligible to acquire a firearm under this chapter, the issuing authority shall perform an inquiry on the applicant, by using the National Instant Criminal Background Check System, to include a check of the Immigration and Customs Enforcement databases, before any determination to issue a permit or to deny an application is made.]~~

2. By amending subsection (i) to read:

“(i) No fee shall be charged for permits, or applications for permits, under this section, except for a single fee chargeable by and payable to the issuing county, for individuals applying for their first permit, in an amount equal to the fee ~~[actually]~~ charged by the ~~[Federal Bureau of Investigation to the issuing police department for a fingerprint check in connection with that application or permit.]~~ Hawaii criminal justice data center pursuant to section 846-2.7. In the case of a joint application, the fee provided for in this section may be charged to each person to whom no previous permit has been issued.”

SECTION 3. Section 134-3, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) Every person arriving in the State who brings or by any other manner causes to be brought into the State a firearm of any description, whether usable or unusable, serviceable or unserviceable, modern or antique, shall register the firearm within five days after arrival of the person or of the firearm, whichever arrives later, with the chief of police of the county of the person's place of business or, if there is no place of business, the person's residence or, if there is neither a place of business nor residence, the person's place of sojourn. A nonresident alien may bring firearms not otherwise prohibited by law into the State for a continuous period not to exceed ninety days; provided that the person meets the registration requirement of this section and the person possesses:

- (1) A valid Hawaii hunting license procured under chapter 183D, part II, or a commercial or private shooting preserve permit issued pursuant to section 183D-34;
- (2) A written document indicating the person has been invited to the State to shoot on private land; or
- (3) Written notification from a firing range or target shooting business indicating that the person will actually engage in target shooting.

The nonresident alien shall be limited to a nontransferable registration of not more than ten firearms for the purpose of the above activities.

Every person registering a firearm under this subsection shall be fingerprinted and photographed by the police department of the county of registration; provided that this requirement shall be waived where fingerprints and photographs are already on file with the police department. The police department shall perform an inquiry on the person by using the ~~[National Instant Criminal Background Check System]~~ International Justice and Public Safety Network, including the United States Immigration and Customs Enforcement query, the National Crime Information Center, and the National Instant Criminal Back-

ground Check System, pursuant to section 846-2.7 before any determination to register a firearm is made."

2. By amending subsection (b) to read:

"(b) Every person who acquires a firearm pursuant to section 134-2 shall register the firearm in the manner prescribed by this section within five days of acquisition. The registration shall be on forms prescribed by the attorney general, which shall be uniform throughout the State, and shall include the following information: name of the manufacturer and importer; model; type of action; caliber or gauge; serial number; and source from which receipt was obtained, including the name and address of the prior registrant. If the firearm has no serial number, the permit number shall be entered in the space provided for the serial number, and the permit number shall be engraved upon the receiver portion of the firearm prior to registration. All registration data that would identify the individual registering the firearm by name or address shall be confidential and shall not be disclosed to anyone, except as may be required ~~for~~:

- (1) For processing the registration ~~[or as may be required by]~~;
- (2) For database management by the Hawaii criminal justice data center;
- (3) By a law enforcement agency for the lawful performance of its duties; or ~~[as may be required by]~~
- (4) By order of a court."

3. By amending subsection (e) to read:

"(e) No fee shall be charged for the registration of a firearm under this section, except for a fee chargeable by and payable to the registering county for persons registering a firearm under subsection (a), in an amount equal to the fee ~~[actually] charged by the [Federal Bureau of Investigation to the registering police department for a fingerprint check in connection with the registration.]~~ Hawaii criminal justice data center pursuant to section 846-2.7. In the case of a joint registration, the fee provided for in this section may be charged to each person."

SECTION 4. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Criminal history record checks may be conducted by:

- (1) The department of health or its designee on operators of adult foster homes for individuals with developmental disabilities or developmental disabilities domiciliary homes and their employees, as provided by section 321-15.2;
- (2) The department of health or its designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health or health care services as provided by section 321-171.5;
- (3) The department of health or its designee on all applicants for licensure or certification for, operators for, prospective employees, adult volunteers, and all adults, except adults in care, at health care facilities as defined in section 321-15.2;
- (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
- (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;



- (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
- (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
- (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
- (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
- (10) The department of human services on applicants to operate child care facilities, prospective employees of the applicant, and new employees of the provider after registration or licensure as provided by section 346-154;
- (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
- (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in community care foster family homes as provided by section 321-15.2;
- (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
- (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
- (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
- (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
- (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
- (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;
- (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;
- (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers

- and their employees, and adult volunteers as provided by section 321-15.2;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult protective and community services branch, as provided by section 346-97;
  - (23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;
  - (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
  - (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
  - (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
  - (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
  - (28) The department of commerce and consumer affairs on:
    - (A) Each principal of every non-corporate applicant for a money transmitter license; and
    - (B) The executive officers, key shareholders, and managers in charge of a money transmitter's activities of every corporate applicant for a money transmitter license,
 as provided by sections 489D-9 and 489D-15;
  - (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
  - (30) The Hawaii health systems corporation on:
    - (A) Employees;
    - (B) Applicants seeking employment;
    - (C) Current or prospective members of the corporation board or regional system board; or
    - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;
  - (31) The department of commerce and consumer affairs on:
    - (A) An applicant for a mortgage loan originator license; and
    - (B) Each control person, executive officer, director, general partner, and manager of an applicant for a mortgage loan originator company license,
 as provided by chapter 454F;
  - (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;

- (33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;
- (34) The counties on prospective employees for fire department positions which involve contact with children or vulnerable adults;
- (35) The counties on prospective employees for emergency medical services positions which involve contact with children or vulnerable adults;
- (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable citizens during emergencies or crises;
- (37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;
- (38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;
- (39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information;
- (40) The department of commerce and consumer affairs on applicants for real estate appraiser licensure or certification as provided by chapter 466K;
- (41) The department of health or its designee on all license applicants, licensees, employees, contractors, and prospective employees of medical marijuana dispensaries, and individuals permitted to enter and remain in medical marijuana dispensary facilities as provided under sections 329D-15(a)(4) and 329D-16(a)(3); ~~and~~
- (42) The county police departments on applicants for permits to acquire firearms pursuant to section 134-2 and on individuals registering their firearms pursuant to section 134-3; and
- ~~(42)~~ (43) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 22, 2016.)

## A Bill for an Act Relating to Firearms.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that section 134-7, Hawaii Revised Statutes, as a matter of public safety, prohibits the possession of firearms and ammunition by criminal offenders who have committed any felony, a crime of violence, or the illegal sale of drugs; substance abusers; persons diagnosed with a mental or emotional disorder; and persons who are subject to a restraining order or protective order. However, the prohibition does not directly apply to perpetrators of certain misdemeanor offenses, such as harassment by stalking, who may pose a significant risk of harm to others if allowed to possess firearms. A study of female murder victims in ten cities published in 1999 found that seventy-six per cent of women murdered and eighty-five per cent of women who survived a murder attempt by a current or former intimate partner experienced stalking in the year preceding the murder. J. M. McFarland, J. C. Campbell, S. Wilt, C. J. Sachs, Y. Ulrich, & X. Xu, *Stalking and Intimate Partner Femicide*, 3 Homicide Studies no. 4 300 (Nov. 1999). This and other studies demonstrate that while stalking may appear to be low-level, nonviolent behavior, it is often the first step in an escalating course of conduct that too often results in murder.

The legislature further finds that stalking and related acts of domestic abuse have been linked with gun violence. According to the Johns Hopkins Bloomberg School of Public Health's Center for Gun Policy and Research, having a gun in the home increases the risk of homicide of an intimate partner by eight times compared to households without guns and by twenty times when there is a history of domestic violence in the family. Additional studies have documented the correlation between partner stalking, sexual assault, and the propensity for partner stalkers to use firearms against their victims. T. K. Logan & J. Cole, *Exploring the Intersection of Partner Stalking and Sexual Abuse*, 17 Violence Against Women no. 7 904 (July 2011); K. Mohandie, J. R. Meloy, M. McGowan, & J. Williams, *The RECON Typology of Stalking: Reliability and Validity Based Upon a Large Sample of North American Stalkers*, 51 J. of Forensic Science no. 1 147 (Jan. 2006).

Currently, at least eleven states bar some or all individuals convicted of misdemeanor stalking from possessing firearms. As noted by the United States Supreme Court in *United States v. Castleman*, 134 S.Ct. 1405, 1409 (2014), in regards to federal law, "Congress enacted [the misdemeanor domestic violence gun ban], in light of these sobering facts, to 'close a dangerous loophole' in the gun control laws: While felons had long been barred from possessing guns, many perpetrators of domestic violence are convicted only of misdemeanors."

The purpose of this Act is to enhance protections against acts of gun violence committed by individuals with a history of dangerous behavior by specifying that misdemeanor harassment by stalking and sexual assault are among the offenses that disqualify a person from owning, possessing, or controlling any firearm or ammunition.

SECTION 2. Section 134-1, Hawaii Revised Statutes, is amended by amending the definition of "crime of violence" to read as follows:

"'Crime of violence' means any offense, as defined in title 37, that involves injury or threat of injury to the person of another[-], including sexual assault in the fourth degree under section 707-733 and harassment by stalking under section 711-1106.5."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 22, 2016.)

## ACT 110

H.B. NO. 2632

A Bill for an Act Relating to Firearms.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that keeping firearms out of the hands of people who are suffering from mental illness is critical to ensure the safety of those individuals and of the community. Tragic events caused by mass shootings that involve mental illness clearly demonstrate the need for legislative action. Under current law, if the owner of a firearm has been disqualified from owning, possessing, or controlling a firearm for a variety of reasons, including mental illness, the owner has thirty days after receiving notification of the disqualification to voluntarily surrender the firearm, after which the police chief may take possession of the firearm. There is no provision in the law that specifically addresses prompt dispossession of a person's firearms in situations that require immediate action, such as when a person is hospitalized by emergency admission due to a determination by a physician, advanced practice registered nurse, or psychologist that the person is mentally ill or suffering from substance abuse, is imminently dangerous to self or others, and is in need of care or treatment or both.

The legislature finds that the vast majority of firearm permit applicants will not be affected by this Act. Data from the crime prevention and justice assistance division of the department of the attorney general reflect that approximately one per cent of firearms permits are denied each year for any reason. Of those, only eighteen per cent are for mental health reasons. Over the last ten years, 133,000 permit applications have been granted and two hundred sixty-nine have been denied for mental health reasons.

The purpose of this Act is to:

- (1) Require the immediate surrender of a person's firearms and ammunition; or
- (2) If voluntary surrender is not effectuated, allow seizure of the same by the chief of police,

if a person has been disqualified from owning, possessing, or controlling firearms and ammunition due to a diagnosis of having a significant behavioral, emotional, or mental disorder, or due to emergency or involuntary admission to a psychiatric facility pursuant to part IV of chapter 334, Hawaii Revised Statutes. This Act also sets forth the notice requirements for such surrender or seizure of firearms and ammunition.

SECTION 2. Section 134-7.3, Hawaii Revised Statutes, is amended to read as follows:

**“§134-7.3 Seizure of firearms upon disqualification.** (a) If any applicant is denied a permit, the chiefs of police of the respective counties shall send, by certified mail, a notice setting forth the reasons for the denial and may require that the applicant voluntarily surrender all firearms and ammunition to the chief of police where the applicant resides or dispose of all firearms and ammunition. If an applicant fails to voluntarily surrender or dispose of all firearms and ammunition within thirty days from the date notice was mailed, the chief of police may seize all firearms and ammunition.

(b) Any person disqualified from ownership, possession, or control of firearms and ammunition under section 134-7 shall voluntarily surrender all firearms and ammunition to the chief of police where the person resides or dispose of all firearms and ammunition. If any person fails to voluntarily surrender or dispose of all firearms and ammunition within thirty days from the date of disqualification, the chief of police may seize all firearms and ammunition.

(c) For any person disqualified from ownership, possession, or control of firearms and ammunition under section 134-7(c), or because the person has been admitted to a psychiatric facility, whether for emergency or involuntary hospitalization, pursuant to part IV of chapter 334, once the chief of police is notified that the person is disqualified, the chief of police shall promptly issue a notice to the disqualified person to immediately surrender all firearms and ammunition. The notice shall be in writing, shall set forth the reasons for the disqualification, and shall state the requirement that the person immediately surrender all firearms and ammunition to the chief of police. If any person fails to voluntarily surrender all firearms and ammunition upon receiving notice, the chief of police may seize all firearms and ammunition. The firearms and ammunition shall be held in police custody until the person has been medically documented to be no longer adversely affected as provided in section 134-7 or until transferred or sold by the owner. Nothing in this subsection shall be construed to limit the duties imposed by subsection (b).

~~[(e)]~~ (d) For the purposes of this section, “dispose” means selling the firearms to a gun dealer licensed under section 134-31, transferring ownership of the firearms to any person who meets the requirements of section 134-2, or surrendering all firearms to the chief of police where the person resides for storage or disposal; provided, for a person subject to section 134-7(f), “dispose” shall not include transferring ownership of the firearms to any person who meets the requirements of section 134-2.

~~[(d)]~~ (e) The chief of police of the respective counties shall adopt procedures to implement and administer the provisions of this section by December 31, 2001.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 22, 2016.)

A Bill for an Act Relating to the Uniform Aeronautics Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 263-10, Hawaii Revised Statutes, is amended to read as follows:

**“§263-10 Hunting from aircraft; penalty.** (a) Any aeronaut or passenger who, while in flight in, across, or above the State, intentionally kills or attempts to kill any birds or animals shall be guilty of a misdemeanor and punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or both.

(b) Notwithstanding any other law to the contrary, state employees and independent contractors retained by the State may, while in flight in, across, or above the State, intentionally kill or attempt to kill any wildlife in furtherance of official state duties.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 22, 2016.)

A Bill for an Act Relating to Technology in Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

**“§302A- Curricular materials; digital format.** Moneys allocated for printed curricular materials may be expended to purchase digital formats of the curricular materials.”

SECTION 2. Section 302A-101, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

““Curricular materials” means any systematically organized material designed to provide a specific level of instruction in a subject-matter category, including textbooks, instructional materials, library books, equipment, computer software, digital content accessed through a computer or other electronic medium, digital content available through an internet-based provider of course content, or supplies used in a particular course of study.”

2. By repealing the definition of “school textbooks, instructional materials, library books, equipment, or supplies”.

[~~““School textbooks, instructional materials, library books, equipment, or supplies” includes any book, printed matter, or other material used in a particular course of study.”~~]

SECTION 3. Section 302A-1130.6, Hawaii Revised Statutes, is amended to read as follows:

**“§302A-1130.6 ~~[Textbook and instructional]~~ Curricular materials fee special account.** There is established within the department a ~~[textbook and instructional]~~ curricular materials fee special account, into which shall be deposited all fees and charges collected from students or their parents or guardians for the loss, destruction, breakage, or damage of ~~[school textbooks, instructional materials, library books, equipment, or supplies.]~~ curricular materials. Disbursements from this special account shall be expended by the department for the purposes of purchasing, replacing, or repairing ~~[school textbooks, instructional materials, library books, equipment, or supplies.]~~ curricular materials.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 22, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 113

H.B. NO. 2205

A Bill for an Act Relating to Charter Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 302D-5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) An authorizer shall not provide technical support to a prospective charter school applicant, an applicant governing board, or a charter school it authorizes in cases ~~[where]~~ in which the technical support will directly and substantially impact any authorizer decision related to the ~~[authorization,]~~ approval or denial of the charter application or the renewal, revocation, or nonrenewal of the charter ~~[school.]~~ contract. This subsection shall not apply to technical support that an authorizer is required to provide to a charter school pursuant to federal law.”

SECTION 2. Section 302D-12, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) Charter schools and their governing boards shall be exempt from the requirements of chapters 91 and 92. The governing boards shall:

- (1) Hold meetings open to the public;
- (2) ~~[Make available]~~ Post the notices and agendas of public meetings:
  - (A) At a publicly accessible area in the charter school’s office so ~~[as to be]~~ they are available for review during regular business hours; and
  - (B) On the charter school’s internet website, not less than six calendar days prior to the public meeting, unless a waiver is granted by the authorizer or authorizer’s designee in the case of an emergency; ~~[and]~~
- (3) Keep written minutes of all public meetings that shall include:



- (A) The date, time, and place of the meeting;
- (B) The members of the governing board recorded as either present or absent;
- (C) The substance of all matters proposed, discussed, and decided;
- (D) The views of the participants;
- (E) A record, by individual member, of any votes taken; and
- (F) Any other information that any member of the governing board requests be included or reflected in the minutes;
- (4) Not be required to produce a full transcript or audio or video recording of any public meeting, unless otherwise required by law;
- [3] Make available] (5) Post the written minutes from public meetings;
  - (A) At a publicly accessible area in the charter school's office so the minutes are available for review during regular business hours; and
  - (B) On the charter school's internet website,  
within ~~[thirty days and maintain]~~ sixty calendar days after the public meeting or five calendar days after the next public meeting, whichever is sooner; and
- (6) Maintain a list of the current names and contact information of the governing board's members and officers:
  - (A) In the charter school's office so ~~[as to be]~~ it is available for review during regular business hours; and
  - (B) On the charter school's internet website."

SECTION 3. Section 302D-13, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any community, department school, school community council, group of teachers, group of teachers and administrators, or nonprofit organization may submit a letter of intent to an authorizer to form a charter school and establish an applicant governing board. An applicant governing board may develop a charter application pursuant to this section; provided that:

- (1) An applicant governing board established by a community may develop a charter application for a start-up charter school;
- (2) An applicant governing board established by a department school or a school community council may develop a charter application for a conversion charter school;
- (3) An applicant governing board established by a group of teachers or a group of administrators may develop a charter application for a start-up or conversion charter school; and
- (4) A nonprofit organization may:
  - (A) Establish an applicant governing board that is separate from the nonprofit organization and develop a charter application for a start-up or conversion charter school; or
  - (B) Establish an applicant governing board that shall be the board of directors of the nonprofit organization and may develop a charter application for a conversion charter school; provided that any nonprofit organization that seeks to manage and operate a conversion charter school shall:
    - (i) Submit to the authorizer at the time of the charter application bylaws or policies that describe the manner in which business is conducted and policies that relate to the management of potential conflict of interest situations;
    - (ii) Have experience in the management and operation of public or private schools or, to the extent necessary, agree

- to obtain appropriate services from another entity or entities possessing such experience; ~~and~~
- (iii) Not interfere in the operations of the department school to be converted until otherwise authorized by the authorizer in consultation with the department~~[-]; and~~
- (iv) Have the same protections that are afforded to all other governing boards in its role as the conversion charter school governing board.

SECTION 4. Section 302D-18, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) An authorizer shall develop revocation and nonrenewal processes that:

- (1) Provide charter contract holders with a timely notification of the prospect of revocation or non-renewal and the reasons for such possible closure;
- (2) Allow charter contract holders a reasonable amount of time in which to prepare a response;
- (3) Provide charter contract holders with an opportunity to submit documents and give testimony challenging the rationale for closure and supporting the continuation of the school at an orderly proceeding held for that purpose; provided that the proceeding shall be governed by the requirements set forth in this section and shall not be additionally subject to the requirements for an agency hearing under chapter 91;
- (4) Allow charter contract holders access to representation by counsel, subject to section 28-8.3, and to call witnesses on their behalf;
- (5) Permit the recording of proceedings described in paragraph (3); and
- (6) After a reasonable period for deliberation, require a final determination to be made and conveyed in writing to the charter contract holders.”

SECTION 5. Section 302D-28, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) No charter school may assess tuition~~[-];~~ provided that a charter school may assess and collect special fees and charges from students for co-curricular activities. Any special fees and charges collected pursuant to this subsection shall be deposited into insured checking or savings accounts and expended by each individual charter school.”

SECTION 6. Section 302D-34, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) A conversion charter school shall:

- (1) Enroll any student who resides within the school’s former geographic service area pursuant to section 302A-1143, for the grades that were in place when the department school converted to a charter school; provided that the department may consult with a conversion charter school every three years to determine whether realignment of the charter school’s service area is appropriate given population shifts and the department’s overall service area reviews;
- ~~[(2) Follow the department’s procedures regarding enrollment, including but not limited to geographic exceptions and enrollment preferences;] and~~
- ~~[(3)]~~ (2) Be subject to subsection (b) ~~[for grades]~~:

- (A) For grades that were not in place when the school converted to a public charter school[.]; and
- (B) For any seats still available at the charter school after the enrollment of all students desiring to attend the charter school who reside within the school's former geographic service area pursuant to section 302A-1143."

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2016.

(Approved June 22, 2016.)

## ACT 114

H.B. NO. 2559

A Bill for an Act Relating to Mental Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 334-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"'Imminently dangerous to self or others' means that, without intervention, the person will likely become dangerous to self or dangerous to others within the next forty-five days."

SECTION 2. Section 334-59, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Initiation of proceedings. An emergency admission may be initiated as follows:

- (1) If a law enforcement officer has reason to believe that a person is imminently dangerous to self or others, the officer shall call for assistance from the mental health emergency workers designated by the director. Upon determination by the mental health emergency workers that the person is imminently dangerous to self or others, the person shall be transported by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A law enforcement officer may also take into custody and transport to any facility designated by the director any person threatening or attempting suicide~~[, or may take into custody and transport to any designated mental health program, any person subject to an assisted community treatment order, issued pursuant to part VIII of this chapter, for further evaluation and possible emergency hospitalization]~~. The officer shall make application for the examination, observation, and diagnosis of the person in custody. The application shall state or shall be accompanied by a statement of the circumstances under which the person was taken into custody and the reasons therefor which shall be transmitted with the person to a physician, advanced practice registered nurse, or psychologist at the facility~~[, or to a licensed psychiatrist at a designated mental health program]~~.
- (2) Upon written or oral application of any licensed physician, advanced practice registered nurse, psychologist, attorney, member of the clergy, health or social service professional, or any state or coun-

ty employee in the course of employment, a judge may issue an ex parte order orally, but shall reduce the order to writing by the close of the next court day following the application, stating that there is probable cause to believe the person is mentally ill or suffering from substance abuse ~~[or]~~, is imminently dangerous to self or others and in need of care or treatment, or both, giving the findings upon which the conclusion is based~~[-, and directing]~~. The order shall direct that a law enforcement officer or other suitable individual take the person into custody and deliver the person to a designated mental health program, if subject to an assisted community treatment order issued pursuant to part VIII of this chapter, or to the nearest facility designated by the director for emergency examination and treatment[-], or both. The ex parte order shall be made a part of the patient's clinical record. If the application is oral, the person making the application shall reduce the application to writing and shall submit the same by noon of the next court day to the judge who issued the oral ex parte order. The written application shall be executed subject to the penalties of perjury but need not be sworn to before a notary public.

- (3) Any licensed physician, advanced practice registered nurse, physician assistant, or psychologist who has examined a person and has reason to believe the person is:
- (A) Mentally ill or suffering from substance abuse;
  - (B) Imminently dangerous to self or others; and
  - (C) In need of care or treatment;
- may direct transportation, by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A licensed physician, an advanced practice registered nurse, or physician assistant may administer treatment as is medically necessary, for the person's safe transportation. A licensed psychologist may administer treatment as is psychologically necessary."

SECTION 3. Section 334-127, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) If after hearing all relevant evidence, including the results of any diagnostic examination ordered by the family court, the family court finds that the criteria for assisted community treatment under section 334-121(1) ~~[[have]]~~ been met beyond a reasonable doubt and that the criteria under ~~[[section]]~~ sections 334-121(2) to 334-121(7) have been met by clear and convincing evidence, the family court shall order the subject to obtain assisted community treatment for a period of not more than ~~[one hundred eighty days.]~~ one year. The written treatment plan submitted pursuant to section 334-126(h) shall be attached to the order and made a part of the order.

If the family court finds by clear and convincing evidence that the beneficial mental and physical effects of recommended medication outweigh the detrimental mental and physical effects, if any, the order may authorize types or classes of medication to be included in treatment at the discretion of the treating psychiatrist.

The court order shall also state who should receive notice of intent to discharge early in the event that the treating psychiatrist determines, prior to the end of the court ordered period of treatment, that the subject should be discharged early from assisted community treatment."

SECTION 4. Section 334-129, Hawaii Revised Statutes, is amended by amending subsections (b) to (d) to read as follows:

“(b) No subject of the order shall be physically forced to take medication under a family court order for assisted community treatment~~[-, except in accordance with section 334-60.5, relating to admission to a psychiatric facility,]~~ unless the subject is within an emergency department or admitted to a hospital, subsequent to the date of the current assisted community treatment order.

(c) A subject may be transported to a designated mental health program, or a hospital emergency department, for failure to comply with an order for assisted community treatment via the following methods:

(1) By an interested party with the consent of the subject of the order;  
or

(2) In accordance with section 334-59.

(d) The designated mental health program’s treating psychiatrist or psychiatrist’s designee shall make all reasonable efforts to solicit the subject’s compliance with the prescribed treatment. If the subject fails or refuses to comply after the efforts to solicit compliance, the treating psychiatrist shall assess whether the subject of the order meets criteria for admission to a psychiatric facility under part IV of this chapter, and proceed with the admission~~[-]~~ pursuant to section 334-59(a)(2) or (3); provided that the refusal of treatment shall not, by itself, constitute a basis for involuntary hospitalization.”

SECTION 5. Section 334-130, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A subject of assisted community treatment is automatically and fully discharged at the end of the family court ordered period of treatment, a period of not more than ~~[one hundred eighty days,]~~ one year, unless a new family court order has been obtained as provided hereinbelow.”

SECTION 6. Act 221, Session Laws of Hawaii 2013, is amended by amending section 24 to read as follows:

“SECTION 24. This Act shall take effect on January 1, 2014~~[-, and shall be repealed on July 1, 2020];~~ provided that:

- (1) Petitions filed pursuant to section 334-123, Hawaii Revised Statutes, for assisted community treatment involving a designated mental health program that is a state-operated provider shall not be filed until after July 1, 2015;
- (2) Any private provider wishing to file a petition pursuant to section 334-123, Hawaii Revised Statutes, for assisted community treatment may do so after January 1, 2014, using its own resources, if the petitioner is to be the designated mental health program; and
- (3) Any interested party wishing to file a petition pursuant to section 334-123, Hawaii Revised Statutes, for assisted community treatment may do so after January 1, 2014, using the party’s own resources, if the designated mental health program is a private provider~~[-, and~~
- (4) ~~The title of chapter 334, part VIII, and sections 334-1, 334-59, 334-60.2, 334-60.5, and 334-121 through 334-134, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act].”~~

SECTION 7. Act 27, Session Laws of Hawaii 2015, is amended by amending section 6 to read as follows:

~~“SECTION 6. This Act shall take effect upon its approval; provided that the amendments made to section 334-59, Hawaii Revised Statutes, by section 2 of this Act shall not be repealed when section 334-59, Hawaii Revised Statutes, is reenacted on July 1, 2020, pursuant to section 24 of Act 221, Session Laws of Hawaii 2013].”~~

SECTION 8. Act 231, Session Laws of Hawaii 2015, is amended by amending section 9 to read as follows:

~~“SECTION 9. This Act shall take effect upon its approval; provided that the amendments made to sections 334-123, 334-125, and 334-126, Hawaii Revised Statutes, by this Act shall not be repealed when those sections are reenacted on July 1, 2020, pursuant to section 24, Act 221, Session Laws of Hawaii 2013].”~~

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 11. This Act shall take effect on July 1, 2016.

(Approved June 22, 2016.)

## ACT 115

H.B. NO. 2233

A Bill for an Act Relating to Health Care Professionals.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 451D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§451D- Filing of electronic mail address.** Every individual applying for or renewing a license as a physician under chapter 453, osteopathic physician under chapter 453, physician assistant under chapter 453, advanced practice registered nurse under chapter 457, or naturopathic physician under chapter 455 shall, at the time of applying for licensure or renewal, provide the licensing authority with a current electronic mail address in the form and manner prescribed by the licensing authority; provided that an applicant or licensee has an established electronic mail address. It shall be the licensee’s duty to provide notice to the licensing authority of any change of current electronic mail address within thirty days of the change. The electronic mail addresses may be shared by the licensing authority only with other state or federal agencies, upon request, for purposes of public health and safety and may be used by the licensing authority for any purpose related to the license. Nothing herein shall be construed to modify the method by which the licensing authority provides notice of any matter required by law to be provided to the applicant or licensee.”

SECTION 2. Section 325-2, Hawaii Revised Statutes, is amended to read as follows:

**“§325-2 Physicians, laboratory directors, and health care professionals to report.** Every physician or health care professional having a client affected by or suspected of being affected by a disease or condition declared to be communicable or dangerous to the public health by the director of health shall report the incidence or suspected incidence of such disease or condition to the department of health in writing or in the manner specified by the department of health. Every laboratory director having laboratory data regarding an individual affected by or suspected of being affected by a disease or condition declared to be communicable or dangerous to the public health shall report such diseases or conditions to the department of health in writing or in a manner specified by the health department~~[-]; provided that the laboratory data reported to the department of health shall include the individual’s complete demographic information, including name, date of birth, residential address, and phone number, obtained and confirmed at the time of specimen collection for the purposes of facilitating a public health investigation as necessary by the department of health.~~ Every physician, laboratory director, or health care professional who ~~[refuses or neglects to give such notice, or make such report,]~~ violates this section may be fined in an amount not to exceed \$1,000 per violation, to be assessed by the director of health. The director of health is authorized to impose the penalty pursuant to this section.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved June 22, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 116**

H.B. NO. 801

A Bill for an Act Authorizing the Issuance of Special Purpose Revenue Bonds for Sunstrong LLC, a Renewable Energy Developer Serving the General Public in Providing Electric Energy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that climate change and its severe effects and shoreline erosion impact the lives and livelihoods of Hawaii’s people. There is currently an increasing focus on reducing harmful air emissions from fossil fuels, such as oil and coal, as a possible cause of greenhouse gases, which impact climate change.

The legislature further finds that global fossil fuel prices and concerns about energy security in Hawaii are the impetus locally to acquire renewable resources as a source of energy. Hawaii is extremely well-situated to harness strong trade winds and abundant sunlight to provide renewable energy. SunStrong LLC has considerable experience in installing renewable energy projects using special purpose revenue bonds as a financing instrument.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$50,000,000, in one or more series, for the purpose of assisting SunStrong LLC, a renewable energy developer, in serving the general public by providing renewable electric energy and installing renewable energy projects in Hawaii. The legislature hereby finds and determines that the renewable energy projects constitute a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2021, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 and to refund special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2021.

SECTION 6. This Act shall take effect on July 1, 2016.

(Approved June 22, 2016.)

## ACT 117

H.B. NO. 2593

A Bill for an Act Authorizing the Issuance of Special Purpose Revenue Bonds for Hawaii Renewable Resources, LLC.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the development of local sustainable food production and the use and production of renewable energy systems continues to be in the best public interest. Hawaii Renewable Resources, LLC, is a Hawai'i company offering sustainable solutions for the production of food and renewable energy from the conversion of recovered food and green agricultural crop resources.

Hawaii Renewable Resources, LLC, proposes to own, design, build, and operate a project located on approximately ninety acres of agricultural lands on central O'ahu that includes:

- (1) A material reprocessing facility to recover organic materials, food manufacturing waste, green crop waste, and farm crop harvest waste;



- (2) A closed-loop, fully renewable and sustainable facility, with its own energy production, water recovery, waste processing, telecommunications, and environmental controls;
- (3) A digester system to break down food and green waste materials to usable products;
- (4) Other processing equipment necessary to convert food waste, green waste, and other materials to renewable natural gas;
- (5) Processing equipment for production of United States Food and Drug Administration certified pig and fish pellet feeds from processed and cooked food waste;
- (6) Production of soil amendment compost from operations for use in food crop farming;
- (7) Recovery and use of carbon dioxide from renewable natural gas production for use as a plant nutrient in greenhouse food crop hydroponic vegetable farming;
- (8) Recovery of water for purification and use for farm crop irrigation; and
- (9) Production of solar electricity used to operate the facility and provide cooling for harvested vegetable crops.

In support of the project of Hawaii Renewable Resources, LLC, the use of special purpose revenue bonds issued pursuant to this Act has been carefully considered and matches similar investments for infrastructure projects of this type. The issuance of special purpose revenue bonds will also provide critical financial flexibility to support the project initiatives and the deployment of internal capital. Through the utilization of special purpose revenue bonds as a means of funding, Hawaii Renewable Resources, LLC, will provide the public with benefits derived from utilization of alternative energy, without investment or operational risk to the State or counties.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act for Hawaii Renewable Resources, LLC, is in the public interest and for the public health, safety, and general welfare of the State.

**SECTION 2.** Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$30,000,000 in one or more series, for the purpose of assisting Hawaii Renewable Resources, LLC, with the establishment and funding of food, animal feed, and energy production; waste recovery; and related facilities on the island of O'ahu.

**SECTION 3.** The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

**SECTION 4.** The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2021, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 and to refund special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from

federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2021.

SECTION 6. This Act shall take effect on July 1, 2016.  
(Approved June 22, 2016.)

## ACT 118

H.B. NO. 2669

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist TruTag Technologies, Inc.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to part III, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$15,000,000, in one or more series, for the purpose of assisting TruTag Technologies, Inc., a Hawaii corporation, to finance or refinance the planning, construction, improvement, and equipping of its manufacturing facilities in the State. The legislature hereby finds and determines that the planning, construction, improvement, and equipping of the manufacturing facilities constitute a project as defined in part III, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to the manufacturing enterprise.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part III, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist manufacturing enterprises.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2021, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 and to refund special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2021.

SECTION 6. This Act shall take effect on July 1, 2016.  
(Approved June 22, 2016.)

A Bill for an Act Relating to Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to transfer excess revenues from the bureau of conveyances special fund to the Hawaii historic preservation special fund. In addition, this Act appropriates moneys out of the Hawaii historic preservation special fund.

SECTION 2. The legislature determines that there is in the bureau of conveyances special fund at least \$300,000 in excess of the requirements of the fund.

SECTION 3. Notwithstanding section 502-8, Hawaii Revised Statutes, or any other law to the contrary, on June 30, 2016, the director of finance shall transfer \$300,000 or so much thereof as may be necessary for fiscal year 2015-2016 from the bureau of conveyances special fund to the Hawaii historic preservation special fund.

SECTION 4. There is appropriated out of the Hawaii historic preservation special fund the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the integrated information management system and document digitization of the state historic preservation division.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 5. This Act shall take effect on June 29, 2016.

(Approved June 22, 2016.)

A Bill for an Act Relating to the Medical Advisory Board.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-4.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the office of the state director of transportation for administrative purposes a medical advisory board consisting of not fewer than five physicians licensed to practice in the State. The members of the board shall be appointed by the governor as provided in section 26-34, except as otherwise provided by this section. The board shall consist of ~~[one psychiatrist, one neurologist, one orthopedic surgeon, one ophthalmologist or optometrist, and one specialist in cardiovascular disease.]~~ physicians with an interest in one or more of the following:

- (1) Psychiatry;
- (2) Neurology;
- (3) Orthopedics;
- (4) Ophthalmology or optometry;
- (5) Endocrinology;
- (6) Geriatrics; or

(7) Addiction medicine.

The members of the board shall serve without compensation but shall be reimbursed for expenses, including travel expense, actually incurred in the performance of their duties under this chapter.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 22, 2016.)

**ACT 121**

H.B. NO. 1684

A Bill for an Act Relating to the Natural Energy Laboratory of Hawaii Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 102-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The bidding requirements of subsection (a) shall not apply to concessions or space on public property set aside for the following purposes:

- (1) For operation of ground transportation services and parking lot operations at airports, except for motor vehicle rental operations under chapter 437D;
- (2) For lei vendors;
- (3) For airline and aircraft operations;
- (4) For automated teller machines and vending machines, except vending machines located at public schools operated by blind or visually handicapped persons in accordance with section 302A-412;
- (5) For operation of concessions set aside without any charge;
- (6) For operation of concessions by handicapped or blind persons; except concessions operated in the public schools by blind or visually handicapped persons in accordance with section 302A-412;
- (7) For operation of concessions on permits revocable on notice of thirty days or less; provided that no such permits shall be issued for more than a one year period;
- (8) For operation of concessions or concession spaces for a beach service association dedicated to the preservation of the Hawaii beach boy tradition, incorporated as a nonprofit corporation in accordance with state law, and whose members are appropriately licensed or certified as required by law;
- (9) For operation of concessions at county zoos, botanic gardens, or other county parks which are environmentally, culturally, historically, or operationally unique and are supported, by nonprofit corporations incorporated in accordance with state law solely for purposes of supporting county aims and goals of the zoo, botanic garden, or other county park, and operating under agreement with the appropriate agency solely for such purposes, aims, and goals;
- (10) For operation of concessions that furnish goods or services for which there is only one source, as determined by the head of the awarding government agency in writing that shall be included in the contract file;

- (11) For any of the operations of the Hawaii health systems corporation and its regional system boards;
- (12) For airport operation of concessions providing electronic communication services;
- (13) For airport operation of concessions consisting solely of advertising;
- (14) For the stadium authority operation of concessions providing electronic communication services; ~~and~~
- (15) For the stadium authority operation of concessions consisting solely of advertising~~[-]; and~~
- (16) For the operations of the natural energy laboratory of Hawaii authority."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2016; provided that the amendments made to section 102-2, Hawaii Revised Statutes, by section 1 of this Act shall not be repealed when that section is reenacted on June 30, 2021, pursuant to section 4 of Act 141, Session Laws of Hawaii 2014.

(Approved June 22, 2016.)

## ACT 122

S.B. NO. 2850

A Bill for an Act Relating to Mortgage Industry Regulation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to make various amendments to the mortgage loan originators law, chapter 454F, Hawaii Revised Statutes, and the mortgage servicers law, chapter 454M, Hawaii Revised Statutes. This measure clarifies the scope of activities subject to each of the two chapters, which regulate related industries, including by moving mortgage servicer provisions that currently appear in chapter 454F to chapter 454M and deleting provisions and references relating to servicer companies currently in chapter 454F as this class of licenses are regulated entirely under chapter 454M. This measure also makes the terminology used in each chapter consistent with the other and updates references to controlling federal laws.

SECTION 2. Chapter 454M, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§454M- Confidentiality.** (a) Except as otherwise provided in Public Law 110-289, section 1512, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to NMLS, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material shall continue to apply to the information or material after the information or material has been disclosed to NMLS. The information and material may be shared with all state and federal regulatory officials with mortgage servicer industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law.

(b) For these purposes, the commissioner is authorized to enter into agreements or sharing arrangements with other governmental agencies, the

Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies as established by rule or order of the commissioner.

(c) Information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to:

- (1) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or a state; or
- (2) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by NMLS applicable to the information or material; provided that the person to whom the information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

(d) Notwithstanding chapter 92F, the examination process and related information and documents, including the reports of examination, are confidential and are not subject to discovery or disclosure in civil or criminal lawsuits.

(e) Notwithstanding any law to the contrary, the disclosure of confidential supervisory information or any information or material described in subsection (a) that is inconsistent with subsection (a) shall be superseded by the requirements of this section.

(f) This section shall not apply to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage servicers that are included in NMLS for access by the public."

SECTION 3. Section 454F-1, Hawaii Revised Statutes, is amended as follows:

1. By adding four new definitions to be appropriately inserted and to read:

"C.F.R." means the Code of Federal Regulations.

"Consumer Financial Protection Bureau" means the Bureau of Consumer Financial Protection established under title 12 United States Code chapter 53, subchapter V.

"Dwelling" means a residential structure or mobile home that contains one to four family housing units or individual units of condominiums or cooperatives.

"Mortgage servicer" means a person licensed or required to be licensed under chapter 454M."

2. By amending the definitions of "borrower", "federal banking agencies", "licensee", "residential mortgage loan", and "residential mortgage loan modification" to read:

"Borrower" means [a person who has applied for] the obligor, maker, cosigner, or [obtained] guarantor under a residential mortgage loan [from or through a licensed mortgage loan originator or mortgage loan originator company or from a person required to be licensed as a mortgage loan originator or mortgage loan originator company under this chapter.] agreement. For purposes of this chapter, a borrower is included in the term consumer.

"Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, [the Office of Thrift Supervision,] the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

"Licensee" means [a mortgage loan originator, a mortgage loan originator company, a mortgage servicer company, unless exempt under chapter 454M,

~~or~~] a person who is licensed or required to be licensed under this chapter. Licensee does not include an exempt registered mortgage loan originator, exempt sponsoring mortgage loan originator company, or nonprofit organization as defined by this section.

“Residential mortgage loan” or ~~“residential mortgage transaction”~~ “mortgage loan” means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling ~~[as defined in section 103(v) of the Truth in Lending Act, 15 United States Code section 1602]~~ or residential real estate~~[-]~~ upon which is constructed or intended to be constructed a dwelling, and includes refinancings, reverse mortgages, home equity lines of credit, and other first and additional lien loans that meet the qualifications listed in this definition.

“Residential ~~[mortgage]~~ loan modification” or “loan modification” means~~[-]~~:

- (1) ~~Modification of]~~ a temporary or permanent change to the terms of a borrower’s existing residential mortgage [loans which generally includes a change in interest, principal, or term of loan; or
- (2) ~~The processing of the approval of loan assumptions;]~~ loan agreement, mutually agreed to between a borrower and a lender.

~~“Residential mortgage loan modification” does not include origination of mortgage loans.”~~

3. By deleting the definition of “loan modification”.

~~““Loan modification” means a temporary or permanent change to the terms of a borrower’s existing loan agreement, mutually agreed to between a borrower and a lender.”]~~

4. By deleting the definition of “mortgage servicer company”.

~~““Mortgage servicer company” means a mortgage servicer company licensed, or required to be licensed, under chapter 454M that conducts mortgage loan origination activity.”]~~

SECTION 4. Section 454F-1.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All mortgage loan originators, mortgage loan originator companies, exempt registered mortgage loan originators, exempt sponsoring mortgage loan originator companies, nonprofit organizations, ~~[mortgage servicer companies;]~~ and every other person in this State that originates a residential mortgage loan, unless exempt under section 454F-2, shall register with NMLS.”

SECTION 5. Section 454F-1.6, Hawaii Revised Statutes, is amended to read as follows:

“**§454F-1.6 Presumption of control.** An individual is presumed to control a mortgage loan originator company ~~[or a mortgage servicer company]~~ if that individual is a director, general partner, managing member, or executive officer who directly or indirectly has the right to vote ten per cent or more of a class of voting securities or has the power to sell or direct the sale of ten per cent or more of a class of voting securities of that ~~[mortgage loan originator company or mortgage servicer company;]~~ licensee or applicant.”

SECTION 6. Section 454F-2, Hawaii Revised Statutes, is amended to read as follows:

“**§454F-2 Exemptions.** This chapter shall not apply to the following:

- (1) An exempt registered mortgage loan originator when acting for an insured depository institution or an institution regulated by the Farm Credit Administration[;], except as otherwise provided by this chapter;
- (2) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client unless the attorney is compensated by a lender, a mortgage loan originator company, or other mortgage loan originator or by an agent of a lender, mortgage loan originator company, or other mortgage loan originator;
- (3) A person or entity that only performs real estate brokerage activities and is licensed or registered by the State unless the person or entity is compensated by a lender, a mortgage loan originator company, or other mortgage loan originator or by an agent of the lender, mortgage loan originator company, or other mortgage loan originator;
- (4) A person or entity solely involved in extensions of credit relating to timeshare plans, as the term is defined in title 11 United States Code section 101(53D);
- (5) An exempt sponsoring mortgage loan originator company as defined by this chapter except as otherwise provided by this chapter;
- (6) An insured depository institution;
- (7) An institution regulated by the Farm Credit Administration;
- (8) Employees of government agencies or of housing finance agencies who act as mortgage loan originators; or
- ~~[(9) A mortgage servicer company that is exempt from chapter 454M, pursuant to section 454M-3; or~~
- (10) (9) A seller of real property who offers or negotiates terms of a residential mortgage loan that is financed by the seller and secured by the seller's own real property; provided that:
  - (A) The seller is a person, estate, or trust that transacts three or fewer residential mortgage loans in one calendar year;
  - (B) The seller is not a loan originator for purposes of the loan originator qualification requirements in 12 [Code of Federal Regulations] C.F.R. section 1026.36(f) and (g);
  - (C) The seller has not constructed or acted as the construction contractor for the residence on the property in the ordinary course of the seller's business;
  - (D) The interest rate for the loan does not exceed the State's usury limit; provided that the exemptions from usury specified in section 478-8 shall not apply to transactions subject to this paragraph;
  - (E) The seller shall provide to the buyer the terms of the financing including:
    - (i) A current title search including any liens against the property;
    - (ii) The interest rate;
    - (iii) Monthly principal and interest payments;
    - (iv) Any prepayment penalty;
    - (v) Any late payment charges;
    - (vi) The payment schedule;
    - (vii) The total amount of interest that the mortgagor will pay over the term of the loan expressed as a percentage of the loan amount;



- (viii) A calculation of projected aggregate monthly payments including principal and interest;
- (ix) Estimated closing costs if closing costs are included in loan costs and estimated cash to close if closing costs are not included in loan costs. For purposes of this paragraph, closing costs shall include recording fees, transfer taxes, prepaid costs such as homeowner's insurance premiums or property taxes, and appraisal costs charged to the mortgagor;
- (x) The seller's contact information including name, address, phone number, electronic mail address, and alternate contact information to the extent available; and
- (xi) A statement that the seller will acquire a security interest in the buyer's dwelling and that the buyer may lose the dwelling in the event of a loan default;
- (F) The seller shall provide a disclaimer, to be initialed by the buyer, which states, "BUYER ACKNOWLEDGES RECEIVING FINANCING FROM THE SELLER IN THIS TRANSACTION AND GRANTING THE SELLER A MORTGAGE. THIS CAN HAVE SERIOUS CONSEQUENCES SHOULD BUYER FAIL TO MAKE ANY PAYMENTS INCLUDING BUT NOT LIMITED TO FORECLOSURE AND THE LOSS OF BUYER'S PROPERTY. THEREFORE, IT IS IMPORTANT THAT BUYER UNDERSTANDS ALL FINANCING TERMS AND OBLIGATIONS AND OBTAINS PROFESSIONAL EXPERT ADVICE TO THE EXTENT NECESSARY TO ENSURE BUYER IS FULLY ADVISED IN THIS MATTER."; and
- (G) A residential mortgage loan shall be recorded with the land court or bureau of conveyances as applicable."

SECTION 7. Section 454F-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Effective January 1, 2011, or such later date approved by the United States Department of Housing and Urban Development pursuant to the authority granted under Public Law 110-289, section 1508(e), title 12 United States Code section 5107(e), a person, unless specifically exempted from this chapter, shall not engage in the business of a mortgage loan originator or mortgage loan originator company with respect to any dwelling located in this State without first obtaining and maintaining annually, a license under this chapter. Each licensed mortgage loan originator[;] ~~or mortgage loan originator company[; or mortgage servicer company]~~ shall register with and maintain a valid unique identifier issued by NMLS and shall submit to NMLS any reports that shall be in a form and contain information as NMLS may require."

SECTION 8. Section 454F-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The commissioner shall not issue a license pursuant to this chapter unless the commissioner makes at a minimum the following findings:

- (1) The applicant, ~~if~~ or in the case of an applicant that is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members, has never had a mortgage loan originator or a mortgage loan originator company

license revoked in any jurisdiction; provided that a subsequent formal vacation of a revocation shall not be deemed a revocation;

- (2) The applicant, [if] or in the case of an applicant that is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members, has not been convicted of, or pled guilty or nolo contendere, or been granted a deferred acceptance of a guilty plea under federal law or under chapter 853 to a felony in a domestic, foreign, or military court:
  - (A) During the seven-year period preceding the date of the application for licensing and registration; or
  - (B) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering;

provided that any pardon of a conviction shall not be deemed a conviction for purposes of this section;
- (3) The applicant, [if] or in the case of an applicant that is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members, has demonstrated financial responsibility, character, and general fitness to command the confidence of the community and to warrant a determination that the applicant shall operate honestly, fairly, and efficiently pursuant to this chapter. For purposes of this paragraph, a person is not financially responsible when the person has shown a disregard in the management of the person's financial condition. A determination that a person has shown a disregard in the management of the person's financial condition may be based on:
  - (A) Current outstanding judgments, except judgments solely as a result of medical expenses;
  - (B) Current outstanding tax liens or other government liens and filings;
  - (C) Foreclosures within the past three years; and
  - (D) A pattern of seriously delinquent accounts within the past three years;
- (4) The applicant, [if] or in the case of an applicant that is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members, has not been convicted of, plead guilty or nolo contendere to, or been granted a deferred acceptance of a guilty plea under federal law or chapter 853 to any misdemeanor involving an act of fraud, dishonesty, breach of trust, or money laundering;
- (5) The applicant, [if] or in the case of an applicant that is not an individual, each individual mortgage loan originator who is employed by the mortgage loan originator company or who provides exclusive services to the applicant as a mortgage loan originator, has completed the pre-licensing education requirement described in section 454F-6;
- (6) The applicant, [if] or in the case of an applicant that is not an individual, each individual mortgage loan originator who is employed by the mortgage loan originator company or who provides exclusive services to the applicant as a mortgage loan originator, has passed a written test that meets the test requirements in section 454F-7; and
- (7) The applicant has met the mortgage loan recovery fund requirement as required in section 454F-41."

SECTION 9. Section 454F-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) An applicant for licensure as a mortgage loan originator shall complete at least twenty hours of pre-licensing education approved in accordance with subsection (b) that includes:

- (1) Three hours of federal law and regulations and three hours of [state] the State’s law and rules;
- (2) Three hours of ethics, [that] which shall include instruction on fraud, consumer protection, and fair lending issues; and
- (3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

Upon completion of the pre-licensing education, an individual has up to twelve months to submit an application for licensure as a mortgage loan originator. An individual who submits an application after the twelve months have expired will be required to repeat the pre-licensing education requirements.”

SECTION 10. Section 454F-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A written test shall not be treated as a qualified written test for purposes of subsection (a) unless the test adequately measures the applicant’s knowledge and comprehension in appropriate subject areas, including:

- (1) Ethics;
- (2) Federal law and regulations pertaining to mortgage origination;
- (3) [State] The State’s law and rules pertaining to mortgage origination; and
- (4) Federal and [state] the State’s law, rules, and regulations, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.”

SECTION 11. Section 454F-8, Hawaii Revised Statutes, is amended to read as follows:

“§454F-8 Standards for license renewal. (a) The minimum standards for license renewal for mortgage loan originators shall include the following:

- (1) The mortgage loan originator continues to meet the minimum standards for licensure under section 454F-5;
- (2) The mortgage loan originator has satisfied the annual continuing education requirements in section 454F-9 prior to requesting renewal; and
- (3) The mortgage loan originator has paid all required fees for renewal of the license.

(b) The minimum standards for license renewal for mortgage loan originator companies shall include the following:

- (1) The mortgage loan originator company continues to meet the minimum standards for licensure established pursuant to section 454F-5;
- (2) The mortgage loan originator company’s qualified individual and every branch manager have satisfied the minimum standards for license renewal;
- (3) The mortgage loan originator company has paid all required fees for renewal of the license; and
- (4) The mortgage loan originator company is registered with the business registration division of the department of commerce and consumer affairs.

~~[(e) The minimum standards for license renewal for a mortgage servicer company shall include the following:~~

- ~~(1) The mortgage servicer company continues to meet the minimum standards for licensure established pursuant to section 454F-5;~~
- ~~(2) The mortgage servicer company has paid all required fees for renewal of the license; and~~
- ~~(3) The mortgage servicer company is registered with the business registration division of the department of commerce and consumer affairs.~~

~~(d)]~~ (c) The license of a mortgage loan originator~~[,] or mortgage loan originator company[, or mortgage servicer company]~~ that fails to satisfy the minimum standards for license renewal shall expire. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with section 454F-8.5 and the standards established by NMLS.”

SECTION 12. Section 454F-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each year, a licensed mortgage loan originator shall complete at least eight hours of education approved in accordance with subsection (b) that shall include:

- (1) Three hours of federal law and regulations;
- (2) One hour of ~~[state]~~ the State’s law and rules;
- (3) Two hours of ethics that shall include instruction on fraud, consumer protection, and fair lending issues; and
- (4) Two hours of training related to lending standards for the nontraditional mortgage product marketplace.”

SECTION 13. Section 454F-10, Hawaii Revised Statutes, is amended to read as follows:

“**§454F-10 Authority to require license.** In addition to any other duties imposed upon the commissioner, the commissioner shall require mortgage loan originators~~[,] and mortgage loan originator companies[, and mortgage servicer companies]~~ to be licensed and registered through NMLS. The commissioner is authorized to participate in NMLS. The commissioner may establish by rule pursuant to chapter 91, requirements for mortgage loan originators~~[,] and mortgage loan originator companies, [and mortgage servicer companies,]~~ including:

- (1) Background checks of:
  - (A) Criminal history through fingerprint or other databases;
  - (B) Civil or administrative records;
  - (C) Credit history; and
  - (D) Any other source deemed necessary by NMLS;
- (2) Fees to apply for or renew licenses through NMLS;
- (3) The setting or resetting as necessary of license renewal and reporting dates;
- (4) Requirements for amending or surrendering a license; and
- (5) Any other activity the commissioner deems necessary to participate in NMLS.”

SECTION 14. Section 454F-14, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) This section shall not apply to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators~~[,] and mortgage loan originator~~

companies~~], and mortgage servicer companies]~~ that are included in NMLS for access by the public.”

SECTION 15. Section 454F-17, Hawaii Revised Statutes, is amended to read as follows:

**“§454F-17 Prohibited practices.** It shall be a violation of this chapter for a licensee or person subject to this chapter to:

- (1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;
- (2) Engage in any unfair or deceptive practice related to mortgage loan origination activities toward any person;
- (3) Obtain property by fraud or misrepresentation;
- (4) Solicit or enter into any contract with a borrower or an applicant for a residential mortgage loan that provides in substance that the person or individual subject to this chapter may earn a fee or commission through “best efforts” to obtain a residential mortgage loan even though no loan is actually obtained for the borrower~~;~~ or applicant for a residential mortgage loan;
- (5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;
- (6) Conduct any business covered by this chapter without holding a valid license as required under this chapter, or assist or aid and abet any person in the conduct of business under this chapter without a valid license as required under this chapter;
- (7) Fail to make disclosures as required by this chapter and any other applicable state or federal law including rules or regulations adopted pursuant to state or federal law;
- (8) Fail to comply with this chapter or any order or rule issued or adopted under the authority of this chapter, or fail to comply with any other state or federal law, including the rules and regulations adopted pursuant to state or federal law applicable to any business authorized or conducted pursuant to this chapter;
- (9) Make, in any manner, any false or deceptive statement or representation, including with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising;
- (10) Negligently or knowingly make any false statement or provide any misleading information or knowingly and wilfully make any omission of material fact in connection with any information or reports filed with a governmental agency or NMLS, including an application for a license under this chapter, or in connection with any examination or investigation conducted by the commissioner or another government agency;
- (11) Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property for the purpose of influencing the independent judgment of the appraiser with respect to the value of a property;
- (12) Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer;

- (13) Fail to truthfully account for moneys belonging to a party to a residential mortgage loan ~~[transaction]~~;
- (14) Deliver a misleading or deceptive communication or advertisement, whether written, electronic, or oral, when marketing or soliciting a residential mortgage loan; provided that:
  - (A) A communication or advertisement that uses the name or trademark of a financial institution as defined in section 412:1-109 or its affiliates or subsidiaries, or infers that the communication or advertisement is from, endorsed by, is related to, or is the responsibility of the financial institution is a misleading or deceptive communication; and
  - (B) Advertising that a specific interest rate, points, or financial terms are available when the rates, points, or financial terms are not actually available is a misleading or deceptive communication;
- (15) Fill in or complete any blank on a final residential mortgage loan application that requests material information including financial information without adequate supporting documentation provided by the borrower;
- (16) Fill in or complete any blank on any mortgage or note evidencing or securing the residential mortgage loan which relates to the amount, interest rate, term, or monthly payment of the residential mortgage loan;
- (17) Originate a residential mortgage loan based primarily on the current market value of the borrower's collateral rather than on the borrower's ability to repay the loan according to its terms; provided that the sale of the property is made to a bona fide buyer; and provided further that this paragraph shall not apply to a reverse mortgage as defined under title 12 ~~[Code of Federal Regulations]~~ C.F.R. section [226.33;] 1026.33;
- (18) Advertise terms of a residential mortgage loan in violation of ~~[section 226.16]~~ title 12 C.F.R. section 1026.16 or [226.24 of Regulation Z of the Board of Governors of the Federal Reserve System;] 1026.24; or
- (19) Encourage a borrower to misrepresent, inflate, or fabricate the source or amount of a borrower's actual income or assets in the application or underwriting process for a residential mortgage loan."

SECTION 16. Section 454F-22, Hawaii Revised Statutes, is amended to read as follows:

**"§454F-22 Mortgage loan originator, mortgage loan originator company, exempt sponsoring mortgage loan originator company, and nonprofit ~~[organizations, and mortgage servicer company]~~ organization fees.** (a) Except as provided in subsection (b), a mortgage loan originator shall pay the following fees to obtain and maintain a valid mortgage loan originator license:

- (1) Initial application fee of \$600;
- (2) Annual license renewal fee of \$350;
- (3) Reinstatement fee of \$100;
- (4) Late fee of \$25 per day; and
- (5) Criminal background check fee of \$35, or of an amount determined by the commissioner by rule pursuant to chapter 91.

(b) A sole proprietorship mortgage loan originator shall pay the following fees to obtain and maintain a valid sole proprietor mortgage loan originator license:

- (1) Initial application fee of \$35;
- (2) Annual license renewal fee of \$35;
- (3) Reinstatement fee of \$100;
- (4) Late fee of \$25 per day; and
- (5) Criminal background check fee of \$35, or of an amount determined by the commissioner by rule pursuant to chapter 91.

(c) A mortgage loan originator company shall pay the following fees to maintain a valid mortgage loan originator company license or branch license:

- (1) Fees payable for a principal office of a mortgage loan originator company:

- (A) Initial application fee of \$900;
- (B) Processing fee of \$35 for each control person;
- (C) Annual license renewal fee of \$600;
- (D) Reinstatement fee of \$100;
- (E) Late fee of \$25 per day; and
- (F) Criminal background check fee of \$35, or of an amount determined by the commissioner by rule pursuant to chapter 91, for each control person, executive officer, director, general partner, and manager; and

- (2) Fees payable for each branch office of a mortgage loan originator company:

- (A) Initial application fee of \$250;
- (B) Annual license renewal fee of \$100;
- (C) Reinstatement fee of \$100; and
- (D) Late fee of \$25 per day.

(d) An exempt sponsoring mortgage loan originator company shall pay the following fees to maintain a valid registration in NMLS:

- (1) Initial registration fee of \$200;
- (2) Annual registration renewal fee of \$150; and
- (3) Late fee of \$25 per day.

(e) A nonprofit organization shall pay the following fees to maintain a valid registration as a nonprofit organization in NMLS:

- (1) Initial registration fee of \$200;
- (2) Annual registration renewal fee of \$150; and
- (3) Late fee of \$25 per day.

~~[(f) A mortgage servicer company shall pay for a principal office the following fees to maintain a valid mortgage loan servicer loan modification license:~~

- ~~(1) Initial application fee of \$600;~~
- ~~(2) Annual license renewal fee of \$600;~~
- ~~(3) Reinstatement fee of \$100;~~
- ~~(4) Late fee of \$25 per day; and~~
- ~~(5) Criminal background check fee of \$35, or of an amount determined by the commissioner by rule pursuant to chapter 91, for each control person, executive officer, director, general partner, and managing member.~~

~~(g)]~~ (f) In addition to fees charged by NMLS, a licensee shall pay to the commissioner a fee of \$100 for each of the following amendments to information provided to NMLS that require the review of the commissioner:

- (1) Change of physical location or mailing address for branch office or principal place of business;
- (2) Addition or deletion of a "d/b/a" assignment;

- (3) Change of mortgage loan originator's sponsor;
- (4) Change of qualified individual;
- (5) Change of branch manager; and
- (6) Change of mortgage loan originator company's legal name.

The commissioner, upon a showing of good cause, may waive any fee set forth in this subsection.

~~[(h)]~~ (g) The fees established by this section are nonrefundable and are in addition to any fees established and charged by NMLS, an approved educational course provider, an approved educational testing provider, a law enforcement agency for fingerprints and background checks, or a credit reporting agency used by NMLS.

~~[(h)]~~ (h) The commissioner may establish, by rule pursuant to chapter 91, any other fees or charges necessary for the administration of this chapter."

SECTION 17. Section 454F-24, Hawaii Revised Statutes, is amended to read as follows:

**"§454F-24 ~~[Mortgage servicer companies]~~ Limited exemption for mortgage loan originators ~~[-] employed by mortgage servicers.~~** An employee who performs mortgage loan originator activities for a mortgage servicer ~~[company]~~ is exempt from registration and licensure as a mortgage loan originator; provided that:

- (1) The employee's actions are part of the employee's duties as an employee of the mortgage servicer ~~[company]~~; and
- (2) The ~~[employee provides]~~ employee's mortgage loan originator services ~~[only with respect]~~ are limited to [a] residential [mortgage] loan [modification-] modifications and processing the approval of loan assumptions."

SECTION 18. Section 454F-41, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) In addition to application fees and any fees required by NMLS, a licensee shall pay to the division a mortgage loan recovery fund fee as follows for deposit in the mortgage loan recovery fund:

- (1) The sum of \$300 for each principal office location of a mortgage loan originator company ~~[or mortgage servicer company]~~;
- (2) The sum of \$250 for each branch office location of a mortgage loan originator company; and
- (3) The sum of \$200 for each mortgage loan originator.

(c) Upon application for renewal of a license under this chapter, a licensee shall pay, in addition to the licensee's license renewal fee and fees required by NMLS, a mortgage loan recovery fund fee as follows for deposit in the mortgage loan recovery fund:

- (1) The sum of \$200 for each principal office location of a mortgage loan originator company ~~[or a mortgage servicer company]~~;
- (2) The sum of \$100 for each branch office location of a mortgage loan originator company; and
- (3) The sum of \$100 for each mortgage loan originator.

Mortgage loan recovery fund fees collected pursuant to this subsection shall be refundable upon the denial of a license renewal by the commissioner."

SECTION 19. Section 454M-1, Hawaii Revised Statutes, is amended as follows:



1. By adding eight new definitions to be appropriately inserted and to read:

“Affiliated entity” means a person or other entity that is controlled, controlled by, or under common control with a developer.

“Control” means the power to direct management or policies of a company, whether through ownership of securities, by contract, or otherwise.

“Developer” means a person whose time share plan is accepted by the director for registration under chapter 514E.

“Director” means the director of commerce and consumer affairs.

“Dwelling” means a residential structure or mobile home that contains one to four family housing units or individual units of condominiums or cooperatives.

“Residential real estate” means any real property located in this State, upon which a dwelling is constructed or intended to be constructed.

“Time share interest” means that interest purchased in a time share plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a time share plan.

“Time share plan” has the same meaning as defined in title 11 United States Code section 101(53D).”

2. By amending the definitions of “borrower”, “loan modification”, “person”, and “residential mortgage loan” to read:

“Borrower” means the obligor, maker, cosigner, or guarantor under a mortgage loan agreement. For purposes of this chapter, a borrower [may also be referred to as a] is included in the term consumer.

“[Loan] Residential loan modification” or “loan modification” means a temporary or permanent change to the terms of a borrower’s existing residential mortgage loan agreement, mutually agreed to between a borrower and a lender.

“Person” means an individual, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or other association[, or other organization.] of individuals, however organized.

“Residential mortgage loan” or “mortgage loan” means [a mortgage loan, home equity loan, or reverse mortgage] any loan[;] primarily for personal, family, or household use that is secured by a [first or subordinate lien on residential real property located in Hawaii, including a refinancing of any secured loan on residential real property located in Hawaii, upon which:

- (1) There is or will be constructed a structure or structures designed principally for occupancy by one to four families, including individual units of condominiums and cooperatives; or
- (2) A manufactured home is located or will be placed on the real property, using proceeds of the loan.] mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or residential real estate and includes refinancings, reverse mortgages, home equity lines of credit, and other first and additional lien loans that meet the qualifications listed in this definition.”

SECTION 20. Section 454M-2, Hawaii Revised Statutes, is amended to read as follows:

**“§454M-2 License required.** (a) No person except those exempted under this chapter shall engage in the business of mortgage servicing without a license as provided in this chapter.

(b) No person shall engage in the business of mortgage servicing in this State unless the person providing services has a physical presence in the State pursuant to section 454M-5(b)(6).

~~[(c) No person licensed as a mortgage servicer shall provide mortgage loan modifications or any other services that would require licensing pursuant to chapter 454F without first complying with the licensure requirements under chapter 454F.]~~

SECTION 21. Section 454M-3, Hawaii Revised Statutes, is amended to read as follows:

~~“[§454M-3]~~ **Exemptions.** This chapter shall not apply to the following:

- (1) Any persons chartered or authorized under the laws of any state or federal law to engage in the activity of an insured depository institution as defined in title 12 United States Code section 1813(c)(2), including banks or savings associations, and operating subsidiaries of an insured depository institution;
- (2) Trust companies, credit unions, insurance companies, and financial service loan companies licensed by the State;
- (3) The Federal Deposit Insurance Corporation, in connection with assets acquired, assigned, sold, or transferred pursuant to section 13(c) of the Federal Deposit Insurance Act or as receiver or conservator of an insured depository institution;
- (4) The Federal National Mortgage Association; the Federal Home Loan Mortgage Corporation; the Federal Deposit Insurance Corporation; the United States Department of Housing and Urban Development, and the Government National Mortgage Association and the Federal Housing Administration, and cases in which a mortgage insured under the National Housing Act, 12 United States Code section 1701 et seq., is assigned to the United States Department of Housing and Urban Development; the National Credit Union Administration; the Farmers Home Administration or its successor agency under Public Law 103-354; and the Department of Veterans Affairs, in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by termination of the contract for servicing the loan for cause, commencement of proceedings for bankruptcy of the servicer, or commencement of proceedings by the Federal Deposit Insurance Corporation for conservatorship or receivership of the servicer or an entity by which the servicer is owned or controlled; ~~[and]~~
- (5) Any person making or acquiring contemporaneously no more than five residential mortgage loans with that person's own funds for that person's own investment~~[-]; and~~
- (6) A developer of a time share plan, or an affiliated entity of a developer of a time share plan, servicing a loan that is:
  - (A) Made by the developer or the developer's affiliated entity; and
  - (B) Secured by a lien on a time share interest.

SECTION 22. Section 454M-4, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The commissioner may approve a license or license renewal application upon receipt of a complete application; provided that an applicant for licensure shall file an application on a form prescribed by NMLS or by the com-

missioner and shall pay an application fee of \$675. Each license shall expire on December 31 of each calendar year unless the license is renewed. A licensee may apply for license renewal by filing a renewal statement on a form prescribed by NMLS or by the commissioner and paying a renewal fee of ~~[\$425.]~~ \$600, at least four weeks prior to December 31. The minimum standards for license renewal shall include the following:

- (1) The licensee continues to meet the minimum standards for licensure established pursuant to this section;
- (2) The licensee has paid all required fees for renewal of the license; and
- (3) The licensee is registered with the business registration division of the department of commerce and consumer affairs.

All fees paid pursuant to this section, including fees paid in connection with an application, shall be nonrefundable. No fee paid pursuant to this section shall be prorated if the license is surrendered, revoked, or suspended prior to the expiration of the period for which it was approved."

2. By amending subsection (g) to read:

"(g) A mortgage servicer licensee may change the licensee's name or the address of any of the licensee's offices specified on the most recent filing with NMLS if:

- (1) The licensee files the change with NMLS and~~[- in the case of the principal office or a branch office,]~~ provides directly to the commissioner a bond rider or endorsement, or addendum, as applicable, to any bond on file with the commissioner that reflects the new name or address ~~[of the principal office or branch office; and];~~
- (2) The commissioner approves the change in writing~~[-]; and~~
- (3) The mortgage servicer pays to the commissioner a fee of \$100 and any fees charged by NMLS."

3. By amending subsection (j) to read:

"(j) Before a mortgage servicer's license becomes effective, the applicant or licensee shall file with the commissioner a surety bond written by a surety authorized to write surety bonds in this State, covering the applicant or ~~[licensee's principal office and any branch office from which the applicant or licensee acts as a mortgage servicer,]~~ licensee in a penal sum of \$100,000. No mortgage servicer licensee shall act as a mortgage servicer in this State without maintaining the surety bond required by this section.

The surety bond shall be:

- (1) In a form approved by the attorney general of this State; and
- (2) Conditioned upon the mortgage servicer licensee faithfully performing any and all written agreements or commitments with or for the benefit of borrowers and mortgagees, truly and faithfully accounting for all funds received from a borrower or mortgagee in the person's capacity as a mortgage servicer, and conducting the mortgage business consistent with the provisions of this chapter to perform any written agreements or commitments."

SECTION 23. Section 454M-5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (j) to read:

"(j) Each mortgage servicer licensee shall maintain adequate records of each residential mortgage loan transaction at the office named in the mortgage servicer license~~[-] for seven years."~~

2. By amending subsection (m) to read:

"(m) Where this chapter requires ~~[compliance with]~~ a person to comply with procedures, actions, standards, disclosures, notices, format, content, or

other requirements of the Real Estate Settlement Procedures Act, the required compliance applies to any person subject to this chapter, whether or not the Real Estate Settlement Procedures Act applies to that person or transaction.”

SECTION 24. Section 454M-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) It shall be a violation of this chapter for any mortgage servicer in the course of any mortgage loan transaction to fail to comply with any:

- (1) Applicable federal law or regulation related to mortgage servicing, including but not limited to:
  - (A) The Real Estate Settlement Procedures Act, including the mortgage loan servicing transfer, escrow account administration, and borrower request for information and error resolution requirements;
  - (B) The Truth in Lending Act, title 15 United States Code sections 1601 through 1667f, as amended, and Regulation Z adopted thereunder, title 12 C.F.R. part [226,] 1026, as amended; or
  - (C) Rules and regulations issued or administered by the Consumer Financial Protection Bureau, and interpretations of the rules by the Consumer Financial Protection Bureau through interpretive rules, bulletins, statements of policy, and statements of guidance;
- (2) Agreement with a governmental entity, agency, agent, or regulator, or state attorney general that applies to the mortgage servicer, including:
  - (A) A servicer participation agreement or other agreement to participate in the Home Affordable Modification Program or other Making Home Affordable program;
  - (B) Home Affordable Modification Program rules, including guidance provided by Making Home Affordable program handbooks, and supplemental directives; or
  - (C) The National Mortgage Settlement reached in 2012 by the federal government and forty-nine states, with the five largest mortgage servicers in the United States, to address mortgage servicing, foreclosure, and bankruptcy abuses;
- (3) Order of a court or government regulator that applies to the mortgage servicer;
- (4) Provision of this chapter or any rule adopted pursuant to this chapter; or
- (5) Federal or state law, rule, or regulation.”

SECTION 25. Section 454M-8.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Each licensee or person subject to this chapter shall provide to the commissioner upon request the books and records relating to the operations of the licensee or person subject to this chapter. The commissioner shall have access to the books and records and shall be permitted to interview the officers, principals, mortgage [~~loan originators,~~] servicers employees, independent contractors, agents, and customers of the [~~licensed mortgage loan originator~~] licensee or person subject to this chapter concerning their business.”

SECTION 26. Section 454M-10, Hawaii Revised Statutes, is amended to read as follows:

**“§454M-10 Penalty.** Any person who violates any provision of this chapter may be subject to an administrative fine of not more than \$7,000 for each violation; provided that if the aggregate fine amount exceeds \$7,000, \$1,000 of the aggregate fine amount shall be deposited into the mortgage foreclosure dispute resolution special fund established pursuant to section 667-86.”

SECTION 27. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 28. This Act shall take effect on July 1, 2016.

(Approved June 22, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 123**

S.B. NO. 2670

A Bill for an Act Relating to Behavior Analysts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that licensure for the practice of behavior analysis in Hawaii is needed for the public's health, safety, and welfare. Act 199, Session Laws of Hawaii 2015, codified as chapter 465D, Hawaii Revised Statutes, established standards for the licensing of behavior analysts to address the present and critical need to ensure that persons requiring diagnosis and treatment for autism receive the care they need. Act 199 recognized that behavior analysts and the practice of behavior analysis should be subject to regulation and control to protect the public from unqualified practitioners and from unprofessional conduct. Additionally, health insurance plans in the State will only provide reimbursement for services from behavior analysts who are licensed in the State. The legislature finds that licensure of behavior analysts is necessary for both client protection and access to services.

Current licensure requirements exempt registered and credentialed behavior technician paraprofessionals who, under the direction of a licensed behavior analyst implement behavior plans designed and developed by the licensed behavioral analyst. The legislature finds that there are currently more than three hundred individuals in the State who receive behavior intervention services from paraprofessional providers who implement behavior plans developed by behavioral specialists through the State's Developmental Disabilities Medicaid Waiver program. While ensuring the provision of quality services by properly trained providers is of the utmost importance, the State's current credentialed workforce is inadequate to meet present needs. If current, non-credentialed providers are unable to continue to serve their clients, hundreds of Medicaid waiver recipients will face withdrawal of care and may become at-risk for self-harm or harm to others.

Thus, policies that ensure that a qualified workforce can continue to provide necessary behavior interventions for Medicaid waiver recipients while simultaneously facilitating efforts to build an adequate workforce of credentialed paraprofessionals and licensed professionals to implement behavior plans are imperative.

Initial costs for behavior analyst licensure and annual fees to maintain this license can total over \$1,000, which can be a significant expenditure for behavior analysts, many of whom are paid hourly with minimal benefits. Reducing the surcharge on the license and renewal fee will ease the financial burden of behavior analyst licensing, thereby encouraging the licensure of behavior analysts and increasing the number of licensed behavior analysts available to the public.

The purpose of this Act is to ensure that behavioral services continue to be available for clients who depend on them while facilitating the long-term development of an adequate professional and paraprofessional workforce by:

- (1) Reducing the surcharge for behavior analyst licensing from \$100 to \$50; and
- (2) Enabling the continued availability of necessary behavior intervention services for Medicaid waiver recipients.

SECTION 2. Section 465D-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Upon issuance of a new license and at each license renewal period, each behavior analyst shall pay, in addition to a license fee or renewal fee, a surcharge of [~~\$100,~~] \$50, which shall be maintained in a separate account within the compliance resolution fund established pursuant to section 26-9(o). At the end of each quarter, the moneys contained in the separate account established pursuant to this section shall be transferred to the compliance resolution fund until such time that the total transferred amounts equal the amount appropriated in section 5 of Act 199, Session Laws of Hawaii 2015. Thereafter, no surcharge shall be assessed, and any funds in excess of the amount appropriated in section 5 of Act 199, Session Laws of Hawaii 2015, shall be deposited into the compliance resolution fund.”

SECTION 3. Section 465D-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This chapter is not intended to restrict the practice of other licensed or credentialed healthcare practitioners practicing within their own recognized scopes of practice and shall not apply to:

- (1) An individual working within the scope of practice or duties of another licensed profession that overlaps with the practice of behavior analysis; provided that the person does not purport to be a behavior analyst;
- (2) An individual who implements or designs applied behavior analysis services and possesses board certification as an assistant behavior analyst by the Behavior Analyst Certification Board and who practices in accordance with the most recent supervisory and ethical requirements adopted by the Behavior Analyst Certification Board under the direction of a behavior analyst licensed in this State;
- (3) An individual who directly implements applied behavior analysis services [~~-is~~] and:
  - (A) Is credentialed as a registered behavior technician by the Behavior Analyst Certification Board, and is under the direction of a behavior analyst licensed in this State; or
  - (B) Is a direct support worker who provides medicaid home and community-based services pursuant to section 1915(c) of the Social Security Act on or before January 1, 2019;

For purposes of this paragraph, “direct support worker” means a paraprofessional who directly implements intervention or assess-

ment plans under supervision and does not design intervention or assessment plans;

- (4) A family member implementing an applied behavior analysis plan within the home who acts under the direction of a behavior analyst licensed in this State;
- (5) An individual who engages in the practice of behavior analysis with nonhuman or nonpatient clients or consumers including but not limited to applied animal behaviorists and practitioners of organizational behavior management;
- (6) A matriculated graduate student or postdoctoral fellow whose activities are part of a defined behavior analysis program of study, practicum, or intensive practicum; provided that the student's or fellow's activities or practice is directly supervised by a behavior analyst licensed in this State or an instructor in a Behavior Analyst Certification Board-approved course sequence; or
- (7) An individual pursuing experience in behavior analysis consistent with the Behavior Analyst Certification Board's experience requirements; provided that the experience is supervised by a behavior analyst licensed in this State."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval; provided that section 3 shall apply retroactive to January 1, 2016.

(Approved June 22, 2016.)

## ACT 124

H.B. NO. 1700

A Bill for an Act Relating to the State Budget.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known and may be cited as the Supplemental Appropriations Act of 2016.

SECTION 2. This Act amends Act 119, Session Laws of Hawaii 2015, and other appropriations and authorizations effective during fiscal biennium 2015-2017.

SECTION 3. Part II, Act 119, Session Laws of Hawaii 2015, is amended by amending section 3 to read as follows:

"SECTION 3. APPROPRIATIONS. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated or authorized, as the case may be, from the means of financing specified to the expending agencies designated for the fiscal biennium beginning July 1, 2015<sup>1</sup> and ending June 30, 2017. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the number indicated for each fiscal year, except as provided elsewhere in this Act, or as provided by general law.

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
A. ECONOMIC DEVELOPMENT					
1.	BED100 - STRATEGIC MARKETING & SUPPORT			10.00 *	10.00 *
	OPERATING		BED	1,757,869 A	1,371,350 A
			BED	1,821,915 W	1,821,915 W
2.	BED105 - CREATIVE INDUSTRIES DIVISION			11.00 *	11.00 *
	OPERATING		BED	1,206,995 A	1,309,851 A
			BED	B	30,000 B
	INVESTMENT CAPITAL		AGS	C	800,000 C
			BED	500,000 C	C
3.	BED107 - FOREIGN TRADE ZONE			17.00 *	17.00 *
	OPERATING		BED	2,127,755 B	2,156,516 B
	INVESTMENT CAPITAL		BED	2,170,000 C	C
			BED	D	1,000,000 D
4.	BED142 - GENERAL SUPPORT FOR ECONOMIC DEVELOPMENT			24.00 *	25.00 *
	OPERATING		BED	1,880,945 A	2,439,764 A
5.	BED113 - TOURISM			5.00 *	5.00 *
	OPERATING		BED	141,274,618 B	141,327,051 B
6.	AGR101 - FINANCIAL ASSISTANCE FOR AGRICULTURE				
	OPERATING		AGR	102,500 A	A
				9.00 *	9.00 *
			AGR	1,254,574 B	1,296,844 B
			AGR	5,500,000 W	5,500,000 W
7.	AGR122 - PLANT PEST AND DISEASE CONTROL			84.00 *	79.00 *
	OPERATING		AGR	5,659,086 A	5,547,050 A
				42.00 *	42.00 *
			AGR	8,547,965 B	8,428,040 B
			AGR	2,500 N	2,500 N
			AGR	512,962 T	512,962 T
			AGR	152,139 U	190,656 U
			AGR	50,360 W	50,360 W
			AGR	673,089 P	673,089 P
8.	AGR131 - RABIES QUARANTINE			36.32 *	36.32 *
	OPERATING		AGR	3,627,701 B	3,694,907 B
9.	AGR132 - ANIMAL DISEASE CONTROL			13.68 *	21.68 *
	OPERATING		AGR	1,435,509 A	1,462,592 A
				5.00 *	5.00 *
			AGR	281,052 B	281,052 B
			AGR	377,518 P	377,518 P
10.	LNR172 - FORESTRY - RESOURCE MANAGEMENT AND DEVELOPMENT			17.50 *	17.50 *
	OPERATING		LNR	741,504 A	623,301 A
			LNR	1,955,475 B	2,455,475 B
				1.50 *	1.50 *
	INVESTMENT CAPITAL		LNR	8,820,000 P	7,000,000 P
			LNR	C	1,000,000 C



## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M	FISCAL M
				YEAR O	YEAR O
				2015-2016 F	2016-2017 F
11.	AGR151 - QUALITY AND PRICE ASSURANCE				
	OPERATING	AGR		16.00* 1,629,595 A 3.00* 405,821 B 300,000 T 536,020 W 78,624 P	16.00* 1,668,979 A 3.00* 408,707 B 300,000 T 536,020 W 78,624 P
12.	AGR171 - AGRICULTURAL DEVELOPMENT AND MARKETING				
	OPERATING	AGR		14.00* 1,706,298 A 420,000 B 234,794 N	13.00* 1,936,755 A 1,620,000 B 249,280 N
13.	AGR141 - AGRICULTURAL RESOURCE MANAGEMENT				
	OPERATING	AGR		6.00* 488,664 A 24.50* 2,471,717 B 7.50* 1,206,668 W 2,200,000 C N	5.00* 374,708 A 24.50* 2,500,055 B 7.50* 1,217,990 W 26,000,000 C 3,000,000 N
14.	AGR161 - AGRIBUSINESS DEVELOPMENT AND RESEARCH				
	OPERATING	AGR		50,601 A 500,000 B 4,256,639 W 10,000,000 C	150,601 A 500,000 B 3,837,907 W 39,300,000 C
15.	AGR192 - GENERAL ADMINISTRATION FOR AGRICULTURE				
	OPERATING	AGR		24.00* 1,919,767 A 5.00* 1,108,280 B 1,400,000 C	24.00* 2,164,766 A 6.00* 1,207,080 B 1,400,000 C
16.	LNR153 - FISHERIES MANAGEMENT				
	OPERATING	LNR		9.00* 763,778 A 1.00* 306,750 B 389,326 N 2.00* 249,058 P 1,500,000 C	9.00* 768,949 A 2.00* 346,163 B 375,000 N 2.00* 275,000 P 230,000 C
17.	AGR153 - AQUACULTURE DEVELOPMENT PROGRAM				
	OPERATING	AGR		4.00* 333,736 A 125,000 B C	3.00* 290,617 A 125,000 B 350,000 C
18.	BED120 - HAWAII STATE ENERGY OFFICE				
	OPERATING	BED		222,974 A 5.00* 55,542,457 B 1,500,000 N	1,200,000 A 2.00* 55,415,779 B N

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2015-2016	FISCAL YEAR 2016-2017
19.	BED143	HIGH TECHNOLOGY DEVELOPMENT CORPORATION			
	OPERATING		BED	1.50 * 1,064,602 A	1.50 * 1,425,881 A
			BED	1.50 * 3,789,550 B	1.50 * 3,805,488 B
			BED	1,500,000 W	1,500,000 W
	INVESTMENT CAPITAL		BED	15,989,710 P	962,987 P
			BED	C	3,055,000 C
			BED	E	1,250,000 E
20.	BED145	HAWAII STRATEGIC DEVELOPMENT CORPORATION			
	OPERATING		BED	A	1,000,000 A
			BED	2,608,516 B	2,608,516 B
			BED	4,307,923 W	5,314,406 W
21.	BED146	NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY			
	OPERATING		BED	7,770,736 B	7,816,399 B
	INVESTMENT CAPITAL		BED	330,000 C	C
			BED	D	5,200,000 D
22.	BED138	HAWAII GREEN INFRASTRUCTURE AUTHORITY			
	OPERATING		BED	1,000,000 B	1,000,000 B
23.	LNR141	WATER AND LAND DEVELOPMENT			
	OPERATING		LNR	1.50 * 211,874 A	1.50 * 213,901 A
			LNR	4.00 * 709,916 B	4.00 * 709,916 B
	INVESTMENT CAPITAL		LNR	188,181 T	188,181 T
			LNR	3,250,000 C	16,200,000 C
24.	BED150	HAWAII COMMUNITY DEVELOPMENT AUTHORITY			
	OPERATING		BED	2.00 * 1,191,051 W	2.00 * 1,209,705 W
	INVESTMENT CAPITAL		BED	A	1,450,000 A
			BED	3,355,000 C	3,000,000 C
25.	BED160	HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION			
	OPERATING		BED	A	350,000 A
			BED	3,000,000 N	3,100,000 N
			BED	88,000,000 T	88,000,000 T
			BED	32.00 * 9,842,663 W	31.00 * 10,689,417 W
	INVESTMENT CAPITAL		BED	41,700,000 C	73,830,000 C
26.	BED128	OFFICE OF AEROSPACE			
	OPERATING		BED	904,347 A	1,174,976 A

## B. EMPLOYMENT

## 1. LBR111 - WORKFORCE DEVELOPMENT

OPERATING	LBR	1.20* 752,551 A	1.20* 1,502,963 A
	LBR	5,940,010 B	5,940,010 B
	LBR	112.80* 14,741,622 N	62.80* 11,125,639 N
	LBR	1,553,875 U	1,573,320 U
	LBR	*	8.00*
INVESTMENT CAPITAL	LBR	1,640,000 P	980,000 P
	LBR	8,500,000 C	C

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
2.	LBR135	WORKFORCE DEVELOPMENT COUNCIL			
	OPERATING		LBR	0.10 * 12,322 A 0.90 * 1,042,194 N 600,000 P	0.10 * 12,560 A 3.90 * 8,270,354 N 0 P
3.	LBR171	UNEMPLOYMENT INSURANCE PROGRAM			
	OPERATING		LBR	361,191,310 B 251.50 * 22,795,060 N T	3,191,310 B 251.50 * 23,446,737 N 358,000,000 T
4.	LBR903	OFFICE OF COMMUNITY SERVICES			
	OPERATING		LBR	2.00 * 3,513,791 A 5,000 B 2.00 * 4,374,739 N 1,200,000 U 200,000 P 540,000 C	3.00 * 4,132,307 A 5,000 B 1.00 * 4,831,607 N 1,200,000 U 137,803 P 6,633,000 C
5.	HMS802	VOCATIONAL REHABILITATION			
	OPERATING		HMS	36.27 * 4,571,149 A 68.23 * 14,357,041 N 1,330,200 W	37.09 * 4,879,762 A 69.91 * 14,569,009 N 1,330,200 W
6.	LBR143	HAWAII OCCUPATIONAL SAFETY AND HEALTH PROGRAM			
	OPERATING		LBR	17.10 * 1,010,389 A 22.00 * 2,940,342 B 70,000 W 19.90 * 2,044,065 P	17.10 * 1,051,969 A 22.00 * 2,972,676 B 70,000 W 19.90 * 2,089,716 P
7.	LBR152	WAGE STANDARDS PROGRAM			
	OPERATING		LBR	17.00 * 1,097,103 A	17.00 * 1,124,723 A
8.	LBR153	HAWAII CIVIL RIGHTS COMMISSION			
	OPERATING		LBR	21.50 * 1,543,929 A 0.50 * 250,000 P	21.50 * 1,581,501 A 0.50 * 250,000 P
9.	LBR183	DISABILITY COMPENSATION PROGRAM			
	OPERATING		LBR	86.00 * 5,876,215 A 9.00 * 23,851,406 B * T	87.00 * 5,140,726 A 0.00 * 0 B 9.00 * 23,851,406 T
10.	LBR161	HAWAII LABOR RELATIONS BOARD			
	OPERATING		LBR	1.00 * 741,559 A	1.00 * 759,739 A

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M	FISCAL M
				YEAR O	YEAR O
				2015-2016 F	2016-2017 F
11.	LBR812	LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD			
				9.00 *	9.00 *
	OPERATING		LBR	878,883 A	899,970 A
12.	LBR871	EMPLOYMENT SECURITY APPEALS REFEREES' OFFICE			
				12.00 *	12.00 *
	OPERATING		LBR	1,102,225 N	1,134,800 N
13.	LBR901	RESEARCH AND STATISTICS			
				4.38 *	4.38 *
	OPERATING		LBR	453,294 A	464,478 A
				0.55 *	3.67 *
			LBR	456,604 N	468,969 N
				26.07 *	13.00 *
			LBR	911,869 P	910,533 P
14.	LBR902	GENERAL ADMINISTRATION			
				21.83 *	21.83 *
	OPERATING		LBR	1,885,082 A	2,074,182 A
			LBR	200,000 B	200,000 B
				31.17 *	31.17 *
			LBR	3,241,415 P	3,232,931 P

## C. TRANSPORTATION FACILITIES

1.	TRN102	HONOLULU INTERNATIONAL AIRPORT			
				618.50 *	623.50 *
	OPERATING		TRN	161,086,396 B	159,800,641 B
				N	1,815,000 N
	INVESTMENT CAPITAL		TRN	B	24,000,000 B
			TRN	85,550,000 E	214,532,000 E
			TRN	20,800,000 N	5,451,000 N
2.	TRN104	GENERAL AVIATION			
				30.00 *	31.00 *
	OPERATING		TRN	6,934,709 B	8,038,006 B
			TRN	3,000,000 N	4,200,000 N
	INVESTMENT CAPITAL		TRN	E	638,000 E
3.	TRN111	HILO INTERNATIONAL AIRPORT			
				82.00 *	84.00 *
	OPERATING		TRN	16,101,488 B	17,025,422 B
	INVESTMENT CAPITAL		TRN	650,000 E	3,307,000 E
			TRN	3,150,000 N	N
4.	TRN114	KONA INTERNATIONAL AIRPORT AT KEAHOLE			
				86.00 *	86.00 *
	OPERATING		TRN	20,871,885 B	22,368,510 B
	INVESTMENT CAPITAL		TRN	B	12,825,000 B
			TRN	2,500,000 C	C
			TRN	5,000,000 E	86,104,000 E
			TRN	N	20,001,000 N
5.	TRN116	WAIMEA-KOHALA AIRPORT			
				6.00 *	6.00 *
	OPERATING		TRN	1,341,849 B	1,145,409 B
6.	TRN118	UPOLU AIRPORT			
	OPERATING		TRN	649,500 B	760,500 B

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
7.	TRN131	KAHULUI AIRPORT			
		OPERATING	TRN	162.00 *	162.00 *
			TRN	31,665,832 B	33,075,511 B
		INVESTMENT CAPITAL	TRN	N	1,132,500 N
				5,000,000 E	20,698,000 E
8.	TRN133	HANA AIRPORT			
		OPERATING	TRN	8.00 *	8.00 *
			TRN	1,244,688 B	1,701,228 B
			TRN	N	2,000,000 N
		INVESTMENT CAPITAL	TRN	19,189,000 E	1,063,000 E
			TRN	1,890,000 N	11,250,000 N
9.	TRN135	KAPALUA AIRPORT			
		OPERATING	TRN	11.00 *	11.00 *
				2,244,974 B	2,439,114 B
10.	TRN141	MOLOKAI AIRPORT			
		OPERATING	TRN	13.00 *	14.00 *
			TRN	2,787,571 B	3,128,225 B
			TRN	N	150,000 N
		INVESTMENT CAPITAL	TRN	B	3,000,000 B
			TRN	200,000 E	0 E
			TRN	N	1,000 N
11.	TRN143	KALAUPAPA AIRPORT			
		OPERATING	TRN	9.00 *	9.00 *
			TRN	1,550,227 B	1,493,480 B
				600,000 N	N
12.	TRN151	LANAI AIRPORT			
		OPERATING	TRN	11.00 *	11.00 *
		INVESTMENT CAPITAL	TRN	2,422,901 B	2,750,834 B
			TRN	B	5,000 B
			TRN	E	1,275,000 E
			TRN	R	3,995,000 R
13.	TRN161	LIHUE AIRPORT			
		OPERATING	TRN	101.00 *	101.00 *
			TRN	20,397,425 B	21,582,374 B
			TRN	4,000,000 N	1,122,300 N
		INVESTMENT CAPITAL	TRN	B	8,100,000 B
			TRN	5,465,000 E	2,942,000 E
			TRN	14,535,000 N	1,000 N
14.	TRN163	PORT ALLEN AIRPORT			
		OPERATING	TRN	26,841 B	26,841 B
			TRN	150,000 N	N
15.	TRN195	AIRPORTS ADMINISTRATION			
		OPERATING	TRN	126.00 *	130.00 *
			TRN	176,969,689 B	232,086,892 B
		INVESTMENT CAPITAL	TRN	102,111,000 B	13,800,000 B
			TRN	130,689,000 E	18,360,000 E
			TRN	7,500,000 N	7,501,000 N
			TRN	125,000 X	125,000 X
16.	TRN301	HONOLULU HARBOR			
		OPERATING	TRN	116.00 *	116.00 *
		INVESTMENT CAPITAL	TRN	26,424,201 B	26,642,246 B
				B	3,180,000 B

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2015-2016	FISCAL YEAR 2016-2017
			TRN	260,000,000 E	402,980,000 E
			TRN		8,000 R
			TRN		50,000,000 P
17.	TRN303	KALAELOA BARBERS POINT HARBOR			
		OPERATING	TRN	3.00 *	3.00 *
		INVESTMENT CAPITAL	TRN	1,857,095 B	1,861,801 B
			TRN	4,000,000 E	107,250,000 E
			TRN		4,000 R
18.	TRN311	HILO HARBOR			
		OPERATING	TRN	14.00 *	14.00 *
		INVESTMENT CAPITAL	TRN	2,952,723 B	3,511,937 B
			TRN	0 B	7,950,000 B
19.	TRN313	KAWAIHAE HARBOR			
		OPERATING	TRN	2.00 *	2.00 *
		INVESTMENT CAPITAL	TRN	1,284,958 B	1,782,958 B
			TRN		4,240,000 B
20.	TRN331	KAHULUI HARBOR			
		OPERATING	TRN	18.00 *	18.00 *
		INVESTMENT CAPITAL	TRN	4,190,923 B	4,495,070 B
			TRN	27,500,000 E	10,500,000 E
21.	TRN341	KAUNAKAKAI HARBOR			
		OPERATING	TRN	1.00 *	1.00 *
			TRN	598,455 B	598,455 B
22.	TRN361	NAWILIWILI HARBOR			
		OPERATING	TRN	15.00 *	15.00 *
		INVESTMENT CAPITAL	TRN	2,991,059 B	3,446,541 B
			TRN		3,710,000 E
23.	TRN363	PORT ALLEN HARBOR			
		OPERATING	TRN	1.00 *	1.00 *
			TRN	415,660 B	415,660 B
24.	TRN351	KAUMALAPAU HARBOR			
		OPERATING	TRN	465,000 B	465,000 B
25.	TRN395	HARBORS ADMINISTRATION			
		OPERATING	TRN	77.00 *	77.00 *
		INVESTMENT CAPITAL	TRN	68,355,305 B	65,881,614 B
			TRN	3,650,000 B	9,100,000 B
			TRN	5,000,000 C	C
			TRN	15,235,000 E	15,235,000 E
			TRN		2,000 R
26.	TRN333	HANA HARBOR			
		OPERATING	TRN	42,519 B	42,519 B
27.	TRN501	OAHU HIGHWAYS			
		OPERATING	TRN	224.00 *	209.00 *
			TRN	107,380,915 B	106,678,552 B
		INVESTMENT CAPITAL	TRN	3,100,000 N	0 N
			TRN	1,585,000 C	1,003,000 C
			TRN	18,180,000 E	23,345,000 E
			TRN	38,680,000 N	41,440,000 N

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
28.	TRN511	HAWAII HIGHWAYS			
		OPERATING	TRN	A 131.00*	1,500,000 A 131.00*
			TRN	27,704,384 B	27,322,054 B
		INVESTMENT CAPITAL	TRN	18,800,000 E	11,550,000 E
			TRN	910,000 N	10,002,000 N
29.	TRN531	MAUI HIGHWAYS			
		OPERATING	TRN	89.00* 30,948,787 B	89.00* 31,147,723 B
		INVESTMENT CAPITAL	TRN	B 17,815,000 E	2,000,000 B 14,950,000 E
			TRN	1,080,000 N	30,800,000 N
30.	TRN561	KAUAI HIGHWAYS			
		OPERATING	TRN	51.00* 15,650,246 B	51.00* 16,535,002 B
		INVESTMENT CAPITAL	TRN	5,560,000 E	8,560,000 E
			TRN	12,440,000 N	32,961,000 N
31.	TRN595	HIGHWAYS ADMINISTRATION			
		OPERATING	TRN	90.00* 70,526,593 B	105.00* 108,552,894 B
			TRN	3,850,750 N	7,051,750 N
		INVESTMENT CAPITAL	TRN	16,000,000 B	16,000,000 B
			TRN	C 29,183,000 E	4,000,000 C 16,939,000 E
			TRN	44,542,000 N	51,652,000 N
32.	TRN597	HIGHWAY SAFETY			
		OPERATING	TRN	34.20* 10,478,394 B	34.20* 10,491,989 B
			TRN	6.00* 4,531,000 N	6.00* 4,531,000 N
			TRN	0.80* 745,734 P	0.80* 745,734 P
33.	TRN995	GENERAL ADMINISTRATION			
		OPERATING	TRN	106.00* 17,620,532 B	108.00* 18,180,916 B
			TRN	1.00* 8,275,697 N	1.00* 8,506,808 N
			TRN	423,067 R	423,067 R
34.	TRN695	ALOHA TOWER DEVELOPMENT CORPORATION			
		OPERATING	TRN	1,839,565 B	1,842,173 B

## D. ENVIRONMENTAL PROTECTION

## 1. HTH840 - ENVIRONMENTAL MANAGEMENT

	OPERATING	HTH	56.00* 4,052,175 A	64.00* 4,609,910 A
		HTH	67.00* 81,560,282 B	63.00* 79,259,337 B
		HTH	35.80* 6,121,680 N	33.60* 8,581,434 N
		HTH	2.00* 174,454 U	2.00* 174,454 U
		HTH	29.20* 208,421,779 W	31.00* 208,646,369 W

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
				9.00 *	10.40 *
		INVESTMENT CAPITAL	HTH	2,046,000 P	2,190,144 P
			HTH	3,941,000 C	3,941,000 C
			HTH	19,704,000 N	19,704,000 N
2.	AGR846	PESTICIDES			
		OPERATING	AGR	14.00 *	14.00 *
			AGR	686,405 A	1,362,777 A
			AGR	10.00 *	10.00 *
			AGR	1,701,850 W	1,791,118 W
			AGR	2.00 *	2.00 *
			AGR	446,129 P	446,129 P
3.	LNR401	ECOSYSTEM PROTECTION AND RESTORATION			
		OPERATING	LNR	19.50 *	26.75 *
			LNR	2,270,012 A	2,054,389 A
			LNR	1.00 *	0.00 *
			LNR	39,413 B	0 B
			LNR	*	0.75 *
			LNR	1,668,050 N	1,792,500 N
			LNR	0.50 *	0.50 *
			LNR	2,191,388 P	540,000 P
4.	LNR402	NATIVE RESOURCES AND FIRE PROTECTION PROGRAM			
		OPERATING	LNR	49.50 *	48.50 *
			LNR	4,743,057 A	5,564,991 A
			LNR	8.00 *	15.00 *
			LNR	1,587,764 N	2,046,724 N
			LNR	192,520 T	180,545 T
			LNR	1,846,262 U	1,653,498 U
			LNR	2.50 *	2.50 *
		INVESTMENT CAPITAL	LNR	1,361,760 P	1,405,526 P
			LNR	B	2,000,000 B
			LNR	3,600,000 C	2,200,000 C
5.	LNR404	WATER RESOURCES			
		OPERATING	LNR	18.00 *	19.00 *
			LNR	2,323,264 A	3,938,689 A
			LNR	5.00 *	5.00 *
		INVESTMENT CAPITAL	LNR	978,575 B	988,617 B
			LNR	C	6,500,000 C
6.	LNR405	CONSERVATION AND RESOURCES ENFORCEMENT			
		OPERATING	LNR	109.25 *	109.25 *
			LNR	7,877,898 A	7,897,016 A
			LNR	18.00 *	18.00 *
			LNR	2,502,117 B	2,502,117 B
			LNR	2.75 *	2.75 *
			LNR	982,711 N	970,000 N
			LNR	32,333 W	32,333 W
			LNR	930,000 P	900,000 P
		INVESTMENT CAPITAL	LNR	424,000 C	C
			LNR	1,200,000 N	N
7.	LNR407	NATURAL AREA RESERVES AND WATERSHED MANAGEMENT			
		OPERATING	LNR	28.50 *	30.50 *
			LNR	815,017 A	922,716 A
			LNR	0.50 *	0.50 *
		INVESTMENT CAPITAL	LNR	1,554,911 P	1,684,949 P
			LNR	2,950,000 C	1,000,000 C



PROGRAM APPROPRIATIONS

				APPROPRIATIONS	
ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	FISCAL M	FISCAL M
				YEAR O	YEAR O
				2015-2016 F	2016-2017 F
8.	HTH850 - OFFICE OF ENVIRONMENTAL QUALITY CONTROL			5.00 *	5.00 *
	OPERATING		HTH	373,582 A	382,957 A
9.	LNR906 - LNR - NATURAL AND PHYSICAL ENVIRONMENT			34.00 *	36.00 *
	OPERATING		LNR	2,376,019 A	2,667,766 A
			LNR	14.00 *	16.00 *
			LNR	1,431,618 B	1,663,511 B
				*	1.00 *
			LNR	T	146,794 T
	INVESTMENT CAPITAL		LNR	A	2,141,000 A
			LNR	8,297,000 C	0 C
10.	HTH849 - ENVIRONMENTAL HEALTH ADMINISTRATION			21.00 *	21.00 *
	OPERATING		HTH	2,087,094 A	3,956,388 A
				0.50 *	0.50 *
			HTH	48,271 B	48,271 B
				5.50 *	3.40 *
			HTH	703,251 N	575,500 N
				12.00 *	14.00 *
			HTH	2,240,067 W	2,462,753 W
				11.00 *	13.10 *
			HTH	2,606,686 P	3,756,874 P

E. HEALTH

1.	HTH100	COMMUNICABLE DISEASE AND PUBLIC HEALTH NURSING			
				249.87*	249.87*
	OPERATING		HTH	25,951,065 A	26,124,487 A
				1.00*	1.00*
			HTH	422,589 B	518,226 B
			HTH	3,830,015 N	4,572,267 N
			HTH	142,627 U	142,627 U
				16.00*	16.00*
			HTH	5,008,971 P	5,008,971 P
	INVESTMENT CAPITAL		AGS	C	656,000 C
2.	HTH131	DISEASE OUTBREAK CONTROL			
				20.60*	20.60*
	OPERATING		HTH	1,733,714 A	1,775,150 A
				31.40*	31.40*
			HTH	11,110,428 N	11,215,072 N
			HTH	1,819,639 P	1,819,639 P
3.	HTH730	EMERGENCY MEDICAL SERVICES AND INJURY PREVENTION SYSTEM			
				13.00*	13.00*
	OPERATING		HTH	63,100,663 A	66,302,695 A
			HTH	22,224,866 B	22,230,234 B
			HTH	240,000 P	840,000 P
4.	HTH560	FAMILY HEALTH SERVICES			
				108.00*	107.00*
	OPERATING		HTH	26,166,631 A	26,950,700 A
				14.00*	14.00*
			HTH	21,067,833 B	18,335,234 B
				171.00*	170.00*

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2015-2016	FISCAL YEAR 2016-2017
			HTH	46,545,016 N	48,282,212 N
			HTH	203,441 U	203,441 U
				6.50 *	7.50 *
			HTH	8,499,983 P	18,785,205 P
5.	HTH590	CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION		39.50 *	38.50 *
	OPERATING		HTH	A	950,000 A
			HTH	48,599,577 B	48,656,356 B
			HTH	610,000 U	610,000 U
				10.50 *	10.50 *
			HTH	7,358,454 P	13,046,023 P
6.	HTH595	HEALTH RESOURCES ADMINISTRATION		2.00 *	2.00 *
	OPERATING		HTH	180,275 A	202,369 A
7.	HTH210	HAWAII HEALTH SYSTEMS CORPORATION - CORPORATE OFFICE		54.50 *	54.50 *
	OPERATING		HTH	12,509,280 B	12,509,280 B
	INVESTMENT CAPITAL		HTH	C	500,000 C
8.	HTH211	KAHUKU HOSPITAL			
	OPERATING		HTH	1,500,000 A	1,500,000 A
8A.	SUB601	PRIVATE HOSPITALS AND MEDICAL SERVICES			
	OPERATING		SUB	A	2,500,000 A
9.	HTH212	HAWAII HEALTH SYSTEMS CORPORATION - REGIONS			
	OPERATING		HTH	105,940,000 A	115,940,000 A
				2,780.75 *	2,780.75 *
	INVESTMENT CAPITAL		HTH	541,627,536 B	547,570,474 B
			HTH	20,000,000 C	12,000,000 C
10.	HTH213	ALII COMMUNITY CARE			
	OPERATING		HTH	2,500,000 B	2,500,000 B
10A.	HTH214	MAUI HEALTH SYSTEM, KFH LLC			
	INVESTMENT CAPITAL		HTH	C	6,000,000 C
11.	HTH420	ADULT MENTAL HEALTH - OUTPATIENT		152.50 *	152.50 *
	OPERATING		HTH	60,367,212 A	60,895,203 A
			HTH	11,610,000 B	11,610,000 B
			HTH	1,632,230 N	1,632,230 N
12.	HTH430	ADULT MENTAL HEALTH - INPATIENT		639.00 *	639.00 *
	OPERATING		HTH	66,238,553 A	73,046,858 A
	INVESTMENT CAPITAL		AGS	C	161,832,000 C
13.	HTH440	ALCOHOL AND DRUG ABUSE		22.00 *	25.00 *
	OPERATING		HTH	18,918,377 A	18,996,527 A
			HTH	750,000 B	750,000 B
				6.00 *	3.00 *
			HTH	8,204,680 N	8,346,657 N
			HTH	8,435,852 P	3,342,945 P
14.	HTH460	CHILD AND ADOLESCENT MENTAL HEALTH		160.00 *	160.00 *

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2015-2016	FISCAL YEAR 2016-2017
		OPERATING	HTH	41,085,841 A 17.00 *	41,603,992 A 17.00 *
			HTH	15,043,973 B	15,070,731 B
			HTH	1,086,262 N	969,261 N
			HTH	2,275,159 U	2,281,992 U
			HTH	2,928,851 P	3,116,938 P
15.	HTH501	- DEVELOPMENTAL DISABILITIES		203.75 *	206.75 *
		OPERATING	HTH	75,228,889 A 3.00 *	76,035,559 A 3.00 *
			HTH	1,038,992 B	1,038,992 B
16.	HTH495	- BEHAVIORAL HEALTH ADMINISTRATION		46.50 *	46.50 *
		OPERATING	HTH	6,619,690 A	6,701,937 A
			HTH	869,190 P	137,363 P
17.	HTH610	- ENVIRONMENTAL HEALTH SERVICES		102.00 *	122.00 *
		OPERATING	HTH	6,301,233 A 22.00 *	7,809,575 A 22.00 *
			HTH	2,351,455 B 2.00 *	2,353,130 B 2.00 *
			HTH	340,454 N 3.00 *	158,000 N 3.00 *
			HTH	122,183 U 4.00 *	191,279 U 4.00 *
			HTH	381,534 P	316,000 P
18.	HTH710	- STATE LABORATORY SERVICES		72.00 *	72.00 *
		OPERATING	HTH	7,245,724 A	7,405,814 A
			HTH	1,970,000 P	470,000 P
19.	HTH720	- HEALTH CARE ASSURANCE		21.60 *	22.40 *
		OPERATING	HTH	2,330,433 A	2,223,565 A
			HTH	436,000 B 14.40 *	421,000 B 16.60 *
			HTH	2,405,220 P	2,551,075 P
20.	HTH906	- STATE HEALTH PLANNING AND DEVELOPMENT AGENCY		6.00 *	6.00 *
		OPERATING	HTH	531,900 A	549,766 A
			HTH	114,000 B	114,000 B
21.	HTH760	- HEALTH STATUS MONITORING		29.50 *	32.50 *
		OPERATING	HTH	1,513,151 A 1.00 *	1,527,496 A 1.00 *
			HTH	657,469 B 3.00 *	660,466 B 3.00 *
			HTH	337,000 P	432,300 P
22.	HTH905	- DEVELOPMENTAL DISABILITIES COUNCIL		1.50 *	1.50 *
		OPERATING	HTH	226,704 A 6.50 *	246,464 A 6.50 *
			HTH	533,855 N	553,768 N

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
23.	HTH907 - GENERAL ADMINISTRATION			120.50 *	121.50 *
	OPERATING		HTH	9,856,000 A	12,104,853 A
			HTH	B	207,000 B
			HTH	1,493,060 P	919,074 P
	INVESTMENT CAPITAL		AGS	3,559,000 C	19,463,000 C
			HTH	3,000,000 C	3,998,000 C
24.	HTH908 - OFFICE OF LANGUAGE ACCESS			3.00 *	3.00 *
	OPERATING		HTH	317,102 A	319,326 A
<b>F. SOCIAL SERVICES</b>					
1.	HMS301 - CHILD PROTECTIVE SERVICES			224.10 *	224.10 *
	OPERATING		HMS	33,962,357 A	34,386,529 A
			HMS	1,007,587 B	1,007,587 B
				180.40 *	180.40 *
			HMS	40,817,133 N	41,096,721 N
	INVESTMENT CAPITAL		HMS	106,225 P	106,225 P
			HMS	88,000 C	C
2.	HMS302 - GENERAL SUPPORT FOR CHILD CARE			19.57 *	25.35 *
	OPERATING		HMS	1,220,012 A	1,664,990 A
				19.43 *	24.65 *
			HMS	11,165,857 N	11,646,861 N
3.	HMS303 - CHILD PROTECTIVE SERVICES PAYMENTS				
	OPERATING		HMS	43,131,294 A	43,131,294 A
			HMS	23,614,626 N	23,614,626 N
4.	HMS305 - CASH SUPPORT FOR CHILD CARE				
	OPERATING		HMS	15,011,811 A	25,011,811 A
			HMS	38,530,754 N	38,530,754 N
5.	HMS501 - IN-COMMUNITY YOUTH PROGRAMS			14.00 *	14.00 *
	OPERATING		HMS	9,068,364 A	9,815,128 A
			HMS	2,571,059 N	2,572,105 N
6.	HMS503 - HAWAII YOUTH CORRECTIONAL FACILITY (HYCF)				
	OPERATING		HMS	121.00 *	115.00 *
				10,960,288 A	9,913,677 A
7.	DEF112 - SERVICES TO VETERANS			27.00 *	27.00 *
	OPERATING		DEF	2,657,623 A	3,331,100 A
			DEF	1,636,720 P	1,636,720 P
	INVESTMENT CAPITAL		DEF	75,000 C	29,634,000 C
			DEF	N	37,429,000 N
8.	HMS601 - ADULT AND COMMUNITY CARE SERVICES			71.48 *	71.48 *
	OPERATING		HMS	5,923,337 A	5,722,274 A
				7.02 *	7.02 *
			HMS	3,812,808 N	3,836,261 N
			HMS	10,000 R	10,000 R
			HMS	394,113 U	395,900 U
			HMS	1,321,390 P	1,321,390 P

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
9.	HMS202	- AGED, BLIND AND DISABLED PAYMENTS OPERATING	HMS	4,029,480 A	4,029,480 A
10.	HMS204	- GENERAL ASSISTANCE PAYMENTS OPERATING	HMS	23,889,056 A	23,889,056 A
11.	HMS206	- FEDERAL ASSISTANCE PAYMENTS OPERATING	HMS	5,478,053 N	5,703,592 N
12.	HMS211	- CASH SUPPORT FOR FAMILIES - SELF-SUFFICIENCY OPERATING	HMS HMS	22,694,156 A 44,000,000 N	22,694,156 A 44,000,000 N
13.	HMS220	- RENTAL HOUSING SERVICES OPERATING	HMS	7,326,917 A 200.00 *	7,332,198 A 200.00 *
			HMS	79,431,447 N 21.00 *	79,710,677 N 21.00 *
		INVESTMENT CAPITAL	HMS HMS HMS	4,989,947 W A 5,000,000 C	5,005,456 W 560,000 A 35,150,000 C
14.	HMS229	- HPHA ADMINISTRATION OPERATING	HMS	76.00 * 39,086,881 N 22.00 *	76.00 * 39,225,821 N 22.00 *
			HMS	3,763,717 W	3,787,357 W
15.	HMS222	- RENTAL ASSISTANCE SERVICES OPERATING	HMS	1.25 * 1,064,424 A 16.75 *	18.25 * 2,193,455 A 0.75 *
			HMS	26,286,160 N	24,550,654 N
16.	HMS224	- HOMELESS SERVICES OPERATING	HMS HMS HMS	9.00 * 17,290,567 A 626,906 N 2,366,839 P	11.00 * 27,773,864 A 649,448 N 2,366,839 P
17.	HMS605	- COMMUNITY-BASED RESIDENTIAL SUPPORT OPERATING	HMS	17,810,955 A	17,810,955 A
18.	HMS401	- HEALTH CARE PAYMENTS OPERATING	HMS HMS HMS HMS HMS	855,805,644 A 3,392,660 B 1,371,256,037 N 7,265,746 U 13,216,034 P	900,267,060 A 1,376,660 B 1,577,746,374 N 6,781,921 U 13,216,034 P
19.	HMS236	- CASE MANAGEMENT FOR SELF-SUFFICIENCY OPERATING	HMS	301.78 * 14,660,144 A 237.22 *	296.33 * 14,561,863 A 233.67 *
			HMS HMS	21,036,235 N 2,763 P	23,650,702 N 30,237 P
20.	HMS238	- DISABILITY DETERMINATION OPERATING	HMS	49.00 * 7,734,711 N	49.00 * 7,948,770 N

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2015-2016	FISCAL YEAR 2016-2017
				M O F	M O F
21.	ATG500	CHILD SUPPORT ENFORCEMENT SERVICES			
				74.80*	74.80*
	OPERATING		ATG	4,369,352 A	4,657,883 A
			ATG	2,231,224 T	2,231,224 T
				145.20*	145.20*
			ATG	16,194,827 P	16,643,551 P
22.	HMS237	EMPLOYMENT AND TRAINING			
	OPERATING		HMS	469,505 A	469,505 A
			HMS	699,734 N	1,245,750 N
23.	HHL602	PLANNING AND DEVELOPMENT FOR HAWAIIAN HOMESTEADS			
	OPERATING		HHL	17,144,374 A	0 A
				115.00*	0.00*
			HHL	13,517,243 B	7,651,212 B
				4.00*	4.00*
			HHL	23,317,601 N	23,782,094 N
				81.00*	0.00*
			HHL	11,037,323 T	6,194,089 T
	INVESTMENT CAPITAL		HHL	2,565,000 C	14,000,000 C
			HHL	20,000,000 N	26,600,000 N
23A.	HHL625	ADMINISTRATION AND OPERATING SUPPORT			
	OPERATING		HHL	*	200.00*
				A	23,925,340 A
24.	HTH904	EXECUTIVE OFFICE ON AGING			
	OPERATING		HTH	5.74*	7.54*
				7,679,368 A	11,770,867 A
				8.26*	6.46*
			HTH	7,057,040 N	6,997,531 N
			HTH	972,286 P	3,420,644 P
25.	HTH520	DISABILITY AND COMMUNICATIONS ACCESS BOARD			
	OPERATING		HTH	5.00*	5.00*
				1,139,409 A	1,017,631 A
				4.00*	7.00*
			HTH	588,878 B	952,734 B
				2.00*	2.00*
			HTH	273,411 U	280,848 U
26.	HMS902	GENERAL SUPPORT FOR HEALTH CARE PAYMENTS			
	OPERATING		HMS	130.50*	134.50*
				9,067,507 A	9,134,028 A
				0.56*	0.56*
			HMS	1,539,357 B	1,539,357 B
				138.69*	142.69*
			HMS	25,430,221 N	35,180,544 N
			HMS	717,484 P	843,987 P
27.	HMS903	GENERAL SUPPORT FOR SELF SUFFICIENCY SERVICES			
	OPERATING		HMS	50.32*	49.28*
				41,302,183 A	41,529,309 A
				44.68*	44.72*
			HMS	65,097,191 N	64,999,780 N
			HMS	460 P	3,000 P
28.	HMS904	GENERAL ADMINISTRATION (DHS)			
	OPERATING		HMS	134.65*	135.45*
				9,070,167 A	11,664,016 A
			HMS	B	280,575 B

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
			HMS	26.35*	26.55*
			HMS	2,369,399 N	2,733,080 N
				604 P	1,500 P
29.	HMS901	GENERAL SUPPORT FOR SOCIAL SERVICES			
	OPERATING		HMS	14.65*	14.65*
				2,231,378 A	2,248,727 A
				4.35*	4.35*
			HMS	1,748,702 N	1,763,149 N
<b>G. FORMAL EDUCATION</b>					
1.	EDN100	SCHOOL-BASED BUDGETING			
	OPERATING		EDN	12,562.25*	12,562.25*
			EDN	880,317,495 A	919,739,606 A
			EDN	7,230,000 B	5,230,000 B
			EDN	138,331,226 N	138,331,226 N
			EDN	13,640,000 T	13,640,000 T
			EDN	7,495,605 U	7,495,605 U
			EDN	3,389,438 W	2,379,491 W
			EDN	7,534,000 P	7,534,000 P
	INVESTMENT CAPITAL		EDN	279,108,000 C	301,842,000 C
			EDN	N	30,603,000 N
2.	EDN150	SPECIAL EDUCATION AND STUDENT SUPPORT SERVICES			
	OPERATING		EDN	5,175.50*	5,175.50*
			EDN	351,492,656 A	357,369,736 A
			EDN	100,000 B	100,000 B
				2.00*	2.00*
			EDN	48,899,355 N	48,899,355 N
				4.00*	4.00*
			EDN	3,500,000 W	3,500,000 W
3.	EDN200	INSTRUCTIONAL SUPPORT			
	OPERATING		EDN	377.00*	379.00*
			EDN	50,586,338 A	52,202,121 A
				11.00*	11.00*
			EDN	2,321,746 B	2,321,746 B
			EDN	500,000 N	500,000 N
			EDN	266,380 U	270,031 U
			EDN	228,000 P	250,000 P
4.	EDN300	STATE ADMINISTRATION			
	OPERATING		EDN	484.50*	484.50*
			EDN	46,984,179 A	48,599,682 A
				30,000 P	30,000 P
5.	EDN400	SCHOOL SUPPORT			
	OPERATING		EDN	636.00*	636.00*
			EDN	195,206,685 A	183,909,690 A
				726.50*	726.50*
			EDN	42,876,578 B	42,876,578 B
				3.00*	3.00*
			EDN	59,097,300 N	66,097,300 N
				4.00*	4.00*
	INVESTMENT CAPITAL		EDN	13,950,000 W	6,450,000 W
			EDN	A	4,349,000 A
			EDN	6,500,000 C	0 C

## PROGRAM APPROPRIATIONS

				APPROPRIATIONS	
ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	FISCAL M	FISCAL M
				YEAR O	YEAR O
				2015-2016 F	2016-2017 F
6.	EDN500 - SCHOOL COMMUNITY SERVICES				
	OPERATING		EDN	29.00*	29.00*
			EDN	2,992,223 A	2,862,275 A
			EDN	3,631,000 B	1,631,000 B
			EDN	3,266,540 N	3,266,540 N
			EDN	4,000,000 T	4,000,000 T
			EDN	11,995,000 W	11,700,000 W
7.	EDN600 - CHARTER SCHOOLS				
	OPERATING		EDN	77,992,862 A	74,433,916 A
			EDN	1,588,850 N	1,588,850 N
	INVESTMENT CAPITAL		AGS	C	535,000 C
			EDN	1,535,000 C	830,000 C
8.	EDN612 - CHARTER SCHOOLS COMMISSION AND ADMINISTRATION				
	OPERATING		EDN	16.12*	16.12*
			EDN	1,400,000 A	1,500,000 A
				1.88*	1.88*
			EDN	415,700 N	415,700 N
9.	EDN700 - EARLY LEARNING				
	OPERATING		EDN	49.00*	49.00*
			EDN	3,076,182 A	2,995,872 A
				125,628 N	125,628 N
10.	BUF745 - RETIREMENT BENEFITS PAYMENTS - DOE				
	OPERATING		BUF	311,975,236 A	321,869,442 A
11.	BUF765 - HEALTH PREMIUM PAYMENTS - DOE				
	OPERATING		BUF	245,577,984 A	268,924,144 A
12.	BUF725 - DEBT SERVICE PAYMENTS - DOE				
	OPERATING		BUF	288,542,702 A	300,769,119 A
13.	AGS807 - SCHOOL R&M, NEIGHBOR ISLAND DISTRICTS				
	OPERATING		AGS	80.00*	80.00*
			AGS	4,938,349 A	5,074,671 A
				*	7.00*
			AGS	1,500,000 U	1,827,500 U
14.	EDN407 - PUBLIC LIBRARIES				
	OPERATING		EDN	549.50*	555.00*
			EDN	32,559,945 A	33,661,055 A
			EDN	3,500,000 B	4,000,000 B
			EDN	1,365,244 N	1,365,244 N
	INVESTMENT CAPITAL		AGS	2,500,000 C	11,050,000 C
15.	DEF114 - HAWAII NATIONAL GUARD YOUTH CHALLENGE ACADEMY				
	OPERATING		DEF	1,571,282 A	1,725,000 A
			DEF	5,584,387 P	5,584,387 P
	INVESTMENT CAPITAL		AGS	0 C	138,000 C
			DEF	1,675,000 C	C
			AGS	P	250,000 P
16.	UOH100 - UNIVERSITY OF HAWAII, MANOA				
	OPERATING		UOH	3,232.24*	3,237.24*
			UOH	194,372,784 A	195,571,866 A
				416.25*	416.25*
			UOH	361,154,425 B	361,082,295 B
				78.06*	78.06*
			UOH	6,880,575 N	6,873,565 N



## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2015-2016	FISCAL YEAR 2016-2017
				30.25 *	30.25 *
		INVESTMENT CAPITAL	UOH	65,054,713 W	65,039,713 W
			UOH	8,950,000 C	14,000,000 C
17.	UOH110 -	UNIVERSITY OF HAWAII, JOHN A. BURNS SCHOOL OF MEDICINE		243.10 *	243.10 *
	OPERATING		UOH	17,933,214 A	17,937,727 A
			UOH	27,758,949 B	27,758,949 B
			UOH	6,603,547 W	6,603,547 W
	INVESTMENT CAPITAL		UOH	B	5,750,000 B
18.	UOH210 -	UNIVERSITY OF HAWAII, HILO		523.75 *	550.75 *
	OPERATING		UOH	31,071,988 A	31,133,744 A
				95.00 *	95.00 *
			UOH	45,834,600 B	45,842,307 B
			UOH	443,962 N	443,962 N
				8.50 *	8.50 *
			UOH	7,251,666 W	7,261,666 W
19.	UOH220 -	SMALL BUSINESS DEVELOPMENT			
	OPERATING		UOH	978,941 A	978,941 A
20.	UOH700 -	UNIVERSITY OF HAWAII, WEST OAHU		215.00 *	221.00 *
	OPERATING		UOH	13,190,416 A	13,554,552 A
			UOH	20,272,479 B	20,272,479 B
			UOH	33,544 N	33,544 N
			UOH	2,000,000 W	2,000,000 W
	INVESTMENT CAPITAL		BED	C	35,000,000 C
			UOH	24,000,000 C	C
21.	UOH800 -	UNIVERSITY OF HAWAII, COMMUNITY COLLEGES		1,880.00 *	1,880.00 *
	OPERATING		UOH	119,990,760 A	121,458,842 A
				48.00 *	48.00 *
			UOH	98,435,547 B	98,465,109 B
				0.50 *	0.50 *
			UOH	4,428,296 N	4,428,296 N
			UOH	5,044,753 W	5,044,753 W
	INVESTMENT CAPITAL		UOH	15,000,000 C	50,125,000 C
22.	UOH900 -	UNIVERSITY OF HAWAII, SYSTEMWIDE SUPPORT		449.00 *	448.00 *
	OPERATING		UOH	49,389,105 A	52,294,105 A
				33.00 *	33.00 *
			UOH	15,899,318 B	16,017,434 B
				4.00 *	4.00 *
			UOH	950,311 N	957,327 N
				15.00 *	15.00 *
			UOH	17,233,795 W	17,238,873 W
	INVESTMENT CAPITAL		UOH	20,000,000 C	35,000,000 C
			UOH	24,434,000 C	48,625,000 C
			UOH	E	30,000,000 E
23.	BUF748 -	RETIREMENT BENEFITS PAYMENTS - UH			
	OPERATING		BUF	143,117,530 A	140,814,522 A
24.	BUF768 -	HEALTH PREMIUM PAYMENTS - UH			
	OPERATING		BUF	91,093,213 A	96,682,974 A

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
25.	BUF728	DEBT SERVICE PAYMENTS - UH OPERATING	UH BUF	106,789,267 A	111,314,248 A
<b>H. CULTURE AND RECREATION</b>					
1.	UOH881	UNIVERSITY OF HAWAII, AQUARIA			
	OPERATING		UOH	13.00 * 647,475 A 7.00 *	13.00 * 651,158 A 7.00 *
	INVESTMENT CAPITAL		UOH UOH UOH	3,117,141 B 996,499 W 500,000 C	3,117,141 B 996,499 W C
2.	AGS881	STATE FOUNDATION ON CULTURE AND THE ARTS		0.50 *	0.50 *
	OPERATING		AGS	1,228,888 A 16.50 *	1,303,888 A 17.00 *
			AGS	4,346,261 B 5.00 *	4,427,847 B 4.50 *
			AGS AGS	735,691 N 606,936 P	747,039 N 606,936 P
3.	AGS818	KING KAMEHAMEHA CELEBRATION COMMISSION			
	OPERATING		AGS	61,550 T	63,866 T
4.	LNR802	HISTORIC PRESERVATION			
	OPERATING		LNR	23.00 * 1,531,138 A 2.00 *	23.00 * 1,620,986 A 2.00 *
			LNR	264,316 B 7.00 *	318,030 B 7.00 *
			LNR	649,065 N	574,000 N
5.	LNR804	FOREST AND OUTDOOR RECREATION			
	OPERATING		LNR	29.50 * 1,407,726 A 6.50 *	29.50 * 1,461,155 A 6.50 *
			LNR	1,082,471 B 5.00 *	1,098,414 B 5.00 *
			LNR LNR	3,873,122 N 588,820 W	4,450,783 N 635,428 W
6.	LNR805	DISTRICT RESOURCE MANAGEMENT			
	OPERATING		LNR	16.00 * 823,379 A 99,400 B	16.00 * 835,539 A 99,400 B
			LNR	1,758,000 N	1,670,000 N
7.	LNR806	PARKS ADMINISTRATION AND OPERATION			
	OPERATING		LNR	71.00 * 5,023,854 A 44.00 *	71.00 * 5,313,044 A 48.00 *
			LNR LNR	9,559,763 B 1,218,456 P	9,647,878 B 1,218,456 P
	INVESTMENT CAPITAL		LNR	10,000,000 C	6,250,000 C
8.	LNR801	OCEAN-BASED RECREATION			
	OPERATING		LNR	* 500,000 A 117.00 *	10.00 * 594,256 A 117.00 *

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
			LNR	19,070,872 B	19,223,178 B
			LNR	800,000 N	1,500,000 N
		INVESTMENT CAPITAL	LNR	7,842,000 C	13,500,000 C
			LNR	1,125,000 N	1,250,000 N
9.	AGS889	SPECTATOR EVENTS AND SHOWS - ALOHA STADIUM		38.50 *	38.50 *
		OPERATING	AGS	9,197,434 B	9,264,861 B
		INVESTMENT CAPITAL	AGS	C	10,000,000 C
<b>I. PUBLIC SAFETY</b>					
1.	PSD402	HALAWA CORRECTIONAL FACILITY		410.00 *	410.00 *
		OPERATING	PSD	27,307,847 A	28,132,451 A
			PSD	28,719 W	28,719 W
2.	PSD403	KULANI CORRECTIONAL FACILITY		76.00 *	76.00 *
		OPERATING	PSD	5,330,617 A	5,345,158 A
3.	PSD404	WAIAWA CORRECTIONAL FACILITY		110.00 *	111.00 *
		OPERATING	PSD	6,703,560 A	6,969,663 A
			PSD	15,000 W	15,000 W
		INVESTMENT CAPITAL	AGS	C	4,000,000 C
4.	PSD405	HAWAII COMMUNITY CORRECTIONAL CENTER		166.00 *	168.00 *
		OPERATING	PSD	9,690,910 A	10,085,281 A
		INVESTMENT CAPITAL	AGS	C	6,000,000 C
5.	PSD406	MAUI COMMUNITY CORRECTIONAL CENTER		186.00 *	186.00 *
		OPERATING	PSD	10,754,872 A	11,548,690 A
			PSD	209,721 S	209,721 S
		INVESTMENT CAPITAL	AGS	C	2,500,000 C
6.	PSD407	OAHU COMMUNITY CORRECTIONAL CENTER		498.00 *	503.00 *
		OPERATING	PSD	33,468,952 A	35,010,322 A
			PSD	30,000 W	30,000 W
		INVESTMENT CAPITAL	AGS	C	9,400,000 C
7.	PSD408	KAUAI COMMUNITY CORRECTIONAL CENTER		73.00 *	73.00 *
		OPERATING	PSD	4,407,792 A	4,550,351 A
		INVESTMENT CAPITAL	AGS	C	1,000,000 C
8.	PSD409	WOMEN'S COMMUNITY CORRECTIONAL CENTER		132.00 *	133.00 *
		OPERATING	PSD	7,442,693 A	7,719,612 A
		INVESTMENT CAPITAL	AGS	C	4,000,000 C
9.	PSD410	INTAKE SERVICE CENTERS		61.00 *	61.00 *
		OPERATING	PSD	3,649,111 A	3,755,468 A
10.	PSD420	CORRECTIONS PROGRAM SERVICES		170.00 *	170.00 *
		OPERATING	PSD	22,502,602 A	22,934,719 A
			PSD	715,989 N	1,015,989 N

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
11.	PSD421	HEALTH CARE			
	OPERATING		PSD	209.10* 23,880,693 A	207.10* 24,438,504 A
12.	PSD422	HAWAII CORRECTIONAL INDUSTRIES			
	OPERATING		PSD	150,000 A 2.00*	A 2.00*
			PSD	10,135,780 W	10,151,991 W
13.	PSD808	NON-STATE FACILITIES			
	OPERATING		PSD	9.00* 47,661,671 A	9.00* 50,420,821 A
14.	PSD502	NARCOTICS ENFORCEMENT			
	OPERATING		PSD	13.00* 1,034,431 A 8.00*	13.00* 1,059,492 A 8.00*
			PSD	921,675 W	934,078 W
			PSD	200,000 P	200,000 P
15.	PSD503	SHERIFF			
	OPERATING		PSD	310.00* 15,485,888 A	316.00* 15,736,111 A
			PSD	600,000 N 59.00*	600,000 N 59.00*
			PSD	5,495,624 U	5,495,624 U
16.	PSD611	ADULT PAROLE DETERMINATIONS			
	OPERATING		PSD	6.00* 390,792 A	6.00* 390,792 A
17.	PSD612	ADULT PAROLE SUPERVISION AND COUNSELING			
	OPERATING		PSD	62.00* 4,200,811 A	62.00* 4,299,269 A
18.	PSD613	CRIME VICTIM COMPENSATION COMMISSION			
	OPERATING		PSD	5.00* 450,000 A 8.00*	5.00* 450,000 A 8.00*
			PSD	2,080,151 B	2,098,552 B
			PSD	859,315 P	859,315 P
19.	PSD900	GENERAL ADMINISTRATION			
	OPERATING		PSD	136.00* 15,567,586 A	138.00* 17,299,919 A
			PSD	870,709 B	871,277 B
			PSD	75,065 T	75,065 T
	INVESTMENT CAPITAL		AGS	8,500,000 C	45,000,000 C
			PSD	C	22,500,000 C
20.	ATG231	STATE CRIMINAL JUSTICE INFORMATION AND IDENTIFICATION			
	OPERATING		ATG	25.50* 2,008,795 A 1.00*	25.50* 2,164,005 A 0.00*
			ATG	42,560 U	0 U
			ATG	22.50* 3,338,021 W	23.50* 3,411,841 W
			ATG	649,661 P	1,450,000 P
21.	LNR810	PREVENTION OF NATURAL DISASTERS			
				7.50*	7.50*

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		OPERATING	LNR	2,119,450 B 0.50 *	2,139,896 B 0.50 *
			LNR	370,602 P	370,602 P
22.	DEF110	- AMELIORATION OF PHYSICAL DISASTERS			
		OPERATING	DEF	118.60 * 13,028,547 A 9.50 *	128.60 * 16,083,655 A 7.50 *
			DEF	45,459,063 N 94.15 *	24,550,402 N 93.15 *
		INVESTMENT CAPITAL	DEF	46,067,200 P	81,485,637 P
			AGS	2,419,000 C	3,400,000 C
			DEF	1,906,000 C	6,580,000 C
			AGS	100,000 N	100,000 N
			DEF	6,281,000 N P	31,107,000 N 1,660,000 P

## J. INDIVIDUAL RIGHTS

1. CCA102 - CABLE TELEVISION
 

OPERATING	CCA	8.00 * 2,534,951 B	8.00 * 2,559,971 B
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2. CCA103 - CONSUMER ADVOCATE FOR COMMUNICATION, UTILITIES, AND TRANSPORTATION SERVICES
 

OPERATING	CCA	24.00 * 4,159,141 B	24.00 * 4,241,213 B
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3. CCA104 - FINANCIAL SERVICES REGULATION
 

OPERATING	CCA	39.00 * 4,090,957 B 220,000 T	39.00 * 4,971,852 B 220,000 T
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4. CCA105 - PROFESSIONAL AND VOCATIONAL LICENSING
 

OPERATING	CCA	54.00 * 6,341,895 B 8.00 *	56.00 * 6,484,103 B 8.00 *
	CCA	2,138,993 T	2,355,048 T
5. CCA106 - INSURANCE REGULATORY SERVICES
 

OPERATING	CCA	92.00 * 16,357,720 B 200,000 T 250,000 P	92.00 * 16,644,182 B 200,000 T 250,000 P
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6. CCA107 - POST-SECONDARY EDUCATION AUTHORIZATION
 

OPERATING	CCA	2.00 * 282,233 B	2.00 * 288,611 B
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7. CCA901 - PUBLIC UTILITIES COMMISSION
 

OPERATING	CCA	65.00 * 17,828,567 B	65.00 * 16,045,272 B
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8. CCA110 - OFFICE OF CONSUMER PROTECTION
 

OPERATING	CCA	17.00 * 2,025,447 B 100,681 T	17.00 * 2,109,294 B 100,681 T
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9. AGR812 - MEASUREMENT STANDARDS
 

		7.00 *	6.00 *
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## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		OPERATING	AGR	407,204 A 4.00 *	358,013 A 4.00 *
			AGR	451,000 B	451,000 B
10.	CCA111	- BUSINESS REGISTRATION AND SECURITIES REGULATION			
		OPERATING	CCA	71.00 * 7,317,621 B	71.00 * 7,414,132 B
11.	CCA112	- REGULATED INDUSTRIES COMPLAINTS OFFICE			
		OPERATING	CCA	66.00 * 6,442,820 B	66.00 * 6,631,429 B
12.	CCA191	- GENERAL SUPPORT			
		OPERATING	CCA	44.00 * 7,902,081 B	44.00 * 8,068,306 B
12A.	AGS105	- ENFORCEMENT OF INFORMATION PRACTICES			
		OPERATING	AGS	* A	6.00 * 575,984 A
13.	LTG105	- ENFORCEMENT OF INFORMATION PRACTICES			
		OPERATING	LTG	6.00 * 562,683 A	0.00 * 0 A
14.	BUF151	- OFFICE OF THE PUBLIC DEFENDER			
		OPERATING	BUF	83.50 * 10,762,354 A	84.50 * 11,114,332 A
15.	LNR111	- CONVEYANCES AND RECORDINGS			
		OPERATING	LNR	58.00 * 5,763,443 B	58.00 * 6,026,606 B
16.	HMS888	- COMMISSION ON THE STATUS OF WOMEN			
		OPERATING	HMS	1.00 * 161,833 A	1.00 * 164,016 A

## K. GOVERNMENT-WIDE SUPPORT

1.	GOV100	- OFFICE OF THE GOVERNOR			
		OPERATING	GOV	24.00 * 3,749,146 A	23.00 * 3,816,705 A
		INVESTMENT CAPITAL	GOV	311,348 N 1,000 C	0 N 1,000 C
2.	LTG100	- OFFICE OF THE LIEUTENANT GOVERNOR			
		OPERATING	LTG	3.00 * 1,033,496 A	3.00 * 1,081,703 A
3.	BED144	- STATEWIDE PLANNING AND COORDINATION			
		OPERATING	BED	14.00 * 1,305,946 A	13.00 * 1,402,911 A
			BED	5.00 * 2,350,000 N	5.00 * 2,553,278 N
		INVESTMENT CAPITAL	BED	2,000,000 W C	2,000,000 W 500,000 C
4.	BED103	- STATEWIDE LAND USE MANAGEMENT			
		OPERATING	BED	6.00 * 583,158 A	6.00 * 594,586 A

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M	FISCAL M
				YEAR O	YEAR O
				2015-2016 F	2016-2017 F
5.	BED130 - ECONOMIC PLANNING AND RESEARCH				
	OPERATING	BED		13.00* 1,127,869 A	13.00* 1,274,483 A
6.	BUF101 - DEPARTMENTAL ADMINISTRATION AND BUDGET DIVISION				
	OPERATING	BUF		41.25* 11,766,302 A	45.25* 12,444,982 A
		BUF		0.75* 42,554 U	0.75* 5,897,221 U
	INVESTMENT CAPITAL	BUF		38,113,000 C	C
7.	BUF102 - COLLECTIVE BARGAINING STATEWIDE				
	OPERATING	BUF		18,790,387 A	36,045,294 A
		BUF		1,547,739 B	2,854,560 B
		BUF		478,486 N	841,250 N
		BUF		102,919 W	213,261 W
		BUF		5,675 P	12,196 P
8.	AGS871 - CAMPAIGN SPENDING COMMISSION				
	OPERATING	AGS		5.00* 1,149,990 T	5.00* 4,739,084 T
9.	AGS879 - OFFICE OF ELECTIONS				
	OPERATING	AGS		17.50* 3,240,256 A	17.50* 3,065,752 A
		AGS		0.50* 93,116 N	0.50* 93,920 N
10.	TAX100 - COMPLIANCE				
	OPERATING	TAX		190.00* 10,549,148 A	195.00* 10,775,438 A
11.	TAX105 - TAX SERVICES AND PROCESSING				
	OPERATING	TAX		118.00* 6,572,259 A	118.00* 6,498,821 A
12.	TAX107 - SUPPORTING SERVICES - REVENUE COLLECTION				
	OPERATING	TAX		76.00* 11,501,516 A	75.00* 10,412,760 A
		TAX		1,063,104 B	1,069,097 B
	INVESTMENT CAPITAL	AGS		472,000 C	C
13.	AGS101 - ACCOUNTING SYSTEM DEVELOPMENT AND MAINTENANCE				
	OPERATING	AGS		6.00* 567,579 A	12.00* 826,669 A
	INVESTMENT CAPITAL	AGS		C	15,000,000 C
14.	AGS102 - EXPENDITURE EXAMINATION				
	OPERATING	AGS		16.00* 1,161,427 A	18.00* 1,251,201 A
15.	AGS103 - RECORDING AND REPORTING				
	OPERATING	AGS		13.00* 886,922 A	13.00* 902,018 A
16.	AGS104 - INTERNAL POST AUDIT				
	OPERATING	AGS		6.00* 495,087 A	6.00* 515,672 A
17.	BUF115 - FINANCIAL ADMINISTRATION				
				13.00*	14.00*

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		OPERATING	BUF	1,977,318 A 9.00 *	2,024,205 A 9.00 *
			BUF	7,148,438 T 1.00 *	11,674,867 T 1.00 *
			BUF	98,328 U	105,073 U
18.	BUF721	DEBT SERVICE PAYMENTS - STATE OPERATING	BUF	334,601,504 A	348,779,569 A
19.	ATG100	LEGAL SERVICES		248.31 *	243.31 *
		OPERATING	ATG	22,660,526 A 24.60 *	24,894,437 A 24.60 *
			ATG	3,226,526 B 5.20 *	3,410,965 B 5.20 *
			ATG	5,428,548 N	11,522,136 N
			ATG	3,940,602 T 100.11 *	3,943,508 T 107.11 *
			ATG	11,054,287 U 4.90 *	15,332,123 U 4.90 *
			ATG	3,204,007 W 12.66 *	3,218,449 W 12.66 *
			ATG	2,228,439 P	3,042,681 P
20.	AGS130	INFORMATION MANAGEMENT AND TECHNOLOGY SERVICES		29.00 *	32.00 *
		OPERATING	AGS	24,817,554 A 7.00 *	24,297,031 A 7.00 *
			AGS	3,065,000 B	2,885,000 B
			AGS	7,700,000 N	15,200,000 N
			AGS	25,000,000 U	25,000,000 U
			AGS	100,000 W	80,000 W
			AGS	151,276 P	P
21.	AGS131	INFORMATION PROCESSING AND COMMUNICATIONS SERVICES		104.00 *	104.00 *
		OPERATING	AGS	14,778,865 A 158,578 B 33.00 *	15,017,011 A 166,788 B 33.00 *
			AGS	3,312,584 U	3,312,584 U
		INVESTMENT CAPITAL	AGS	C	5,200,000 C
22.	AGS111	ARCHIVES - RECORDS MANAGEMENT		16.00 *	16.00 *
		OPERATING	AGS	881,677 A 2.00 *	912,441 A 3.00 *
			AGS	505,920 B	510,920 B
23.	AGS891	WIRELESS ENHANCED 911 BOARD OPERATING	AGS	9,000,000 B	10,200,000 B
24.	HRD102	WORK FORCE ATTRACTION, SELECTION, CLASSIFICATION, AND EFFECTIVENESS		86.00 *	88.00 *
		OPERATING	HRD	14,540,613 A 700,000 B 1.00 *	15,822,486 A 700,000 B 1.00 *
			HRD	5,061,281 U	5,061,281 U
25.	HRD191	SUPPORTING SERVICES - HUMAN RESOURCES DEVELOPMENT		11.00 *	11.00 *
		OPERATING	HRD	1,532,749 A	1,653,719 A



## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
26.	BUF141	EMPLOYEES RETIREMENT SYSTEM			
	OPERATING		BUF	105.00 * 13,014,314 X	106.00 * 20,418,249 X
27.	BUF143	HAWAII EMPLOYER UNION TRUST FUND			
	OPERATING		BUF	56.00 * 6,902,897 T	57.00 * 7,099,272 T
28.	BUF741	RETIREMENT BENEFITS PAYMENTS - STATE			
	OPERATING		BUF	324,178,407 A	337,213,979 A
			BUF	4,000,000 U	4,000,000 U
29.	BUF761	HEALTH PREMIUM PAYMENTS - STATE			
	OPERATING		BUF	394,070,109 A	578,135,719 A
30.	LNR101	PUBLIC LANDS MANAGEMENT			
	OPERATING		LNR	* A	1.00 * 90,000 A
			LNR	54.00 * 14,970,156 B	56.00 * 17,259,382 B
	INVESTMENT CAPITAL		LNR	1,000,000 B	1,250,000 B
			LNR	500,000 C	750,000 C
			LNR	R	2,500,000 R
			LNR	S	5,000,000 S
			LNR	T	3,000,000 T
31.	AGS203	STATE RISK MANAGEMENT AND INSURANCE ADMINISTRATION			
	OPERATING		AGS	9,987,995 A	9,987,995 A
			AGS	4.00 * 25,325,788 W	4.00 * 25,339,382 W
32.	AGS211	LAND SURVEY			
	OPERATING		AGS	10.00 * 668,328 A	10.00 * 685,056 A
			AGS	285,000 U	285,000 U
33.	AGS223	OFFICE LEASING			
	OPERATING		AGS	4.00 * 10,343,694 A	4.00 * 10,104,970 A
			AGS	5,500,000 U	5,500,000 U
34.	AGS221	PUBLIC WORKS - PLANNING, DESIGN, AND CONSTRUCTION			
	OPERATING		AGS	16.00 * 1,342,383 A	16.00 * 1,533,417 A
			AGS	4,000,000 W	4,000,000 W
	INVESTMENT CAPITAL		AGS	A	5,836,000 A
			AGS	1,500,000 C	C
			AGS	29,233,000 C	14,736,000 C
35.	AGS231	CENTRAL SERVICES - CUSTODIAL SERVICES			
	OPERATING		AGS	119.00 * 18,547,029 A	123.00 * 19,253,351 A
			AGS	58,744 B	58,744 B
			AGS	1,699,084 U	1,699,084 U
36.	AGS232	CENTRAL SERVICES - GROUNDS MAINTENANCE			
	OPERATING		AGS	27.00 * 1,756,965 A	27.00 * 1,795,233 A
37.	AGS233	CENTRAL SERVICES - BUILDING REPAIRS AND ALTERATIONS			
				33.00 *	33.00 *

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		OPERATING	AGS AGS	3,071,008 A 100,000 U	3,133,712 A 100,000 U
38.	AGS240 -	STATE PROCUREMENT		22.00 * 1,264,525 A	22.00 * 1,395,147 A
		OPERATING	AGS		
39.	AGS244 -	SURPLUS PROPERTY MANAGEMENT		5.00 * 1,826,464 W	5.00 * 1,836,624 W
		OPERATING	AGS		
40.	AGS251 -	AUTOMOTIVE MANAGEMENT - MOTOR POOL		13.00 * 3,445,263 W	13.00 * 3,464,205 W
		OPERATING	AGS		
41.	AGS252 -	AUTOMOTIVE MANAGEMENT - PARKING CONTROL		27.00 * 3,671,012 W	27.00 * 3,675,957 W
		OPERATING	AGS		
42.	AGS901 -	GENERAL ADMINISTRATIVE SERVICES		34.00 * 2,961,482 A	34.00 * 3,554,260 A
		OPERATING	AGS	2.00 * 167,039 U	2.00 * 177,895 U
			AGS		
43.	SUB201 -	CITY AND COUNTY OF HONOLULU INVESTMENT CAPITAL	CCH CCH	2,000,000 C 2,000,000 S	1,850,000 C S
44.	SUB301 -	COUNTY OF HAWAII INVESTMENT CAPITAL	COH	550,000 C	C
45.	SUB401 -	COUNTY OF MAUI INVESTMENT CAPITAL	COM	C	2,000,000 C
46.	SUB501 -	COUNTY OF KAUAI INVESTMENT CAPITAL	COK COK	11,500,000 C S	8,450,000 C 1,000,000 S"

SECTION 4. Part III, Act 119, Session Laws of Hawaii 2015, is amended:

(1) By adding a new section to read as follows:

"SECTION 4.1. Provided that:

- (1) Of the general fund appropriation for the creative industries division (BED105), \$100,000 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for expansion of the creative lab program;
- (2) Of the \$100,000, \$50,000 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for expansion of the creative lab program to the neighbor islands and \$50,000 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for implementation of an animation lab program; and
- (3) The department of business, economic development, and tourism shall submit:
  - (A) An interim report to the legislature at least twenty days before the convening of the regular session of 2017 on the depart-

ment's plan and actions to expend the amount specified under paragraph (1); and

- (B) A final report to the legislature by November 1, 2017 on the actions under and results of the creative lab program during fiscal year 2016-2017."

(2) By adding a new section to read as follows:

"SECTION 4.2. Provided that of the general fund appropriation for general support for economic development (BED142), the sum of \$295,517 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of business, economic development, and tourism; provided further that the department shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made."

(3) By adding a new section to read as follows:

"SECTION 5.1. Provided that of the special fund appropriation for agricultural development and marketing (AGR171), the sum of \$200,000 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for risk assessments performed statewide to identify the pathways of pests moving into ports throughout the state, to determine the risk associated with these pathways, to determine risk associated by commodity, and to determine the resources and methodologies needed to improve interdiction and prevention measures; provided further that the department shall submit a report on its findings to the legislature thirty days prior to the convening of the 2017 regular session."

(4) By adding a new section to read as follows:

"SECTION 5.2. Provided that of the special fund appropriation for agricultural development and marketing (AGR171), the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended by the department for a pilot project to grow rice as a buffer to protect against nene (Hawaiian geese) crop damage."

(5) By adding a new section to read as follows:

"SECTION 5.3. Provided that of the special fund appropriation for agricultural development and marketing (AGR171), the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2016-2017 from the agricultural development and security special fund shall be expended by the department of agriculture, in coordination with agricultural commodity organizations involved with potted plants, cut-flowers, herbs, vegetables, and tropical fruits, for research, importation, evaluation, and distribution of new germplasm necessary to replace high-risk flowers and produce brought into the State; provided further that the department of agriculture shall submit a report on its progress to the legislature thirty days prior to the convening of the 2017 regular session."

(6) By amending section 6 to read as follows:

"SECTION 6. Provided that of the general fund appropriation for general administration for agriculture (AGR192), the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2015-2016 and the [same] sum of \$188,389 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of agriculture; provided further that the department shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments

made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(7) By adding a new section to read as follows:

“SECTION 7.1. Provided that of the general fund appropriation for the Hawaii state energy office (BED120), the sum of \$1,200,000 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended by the department of business, economic development, and tourism for a study to evaluate the alternative utility and regulatory models including, but not limited to, co-operative, municipal, and independent distribution system operators, and the ability of each model to:

- (1) Achieve state energy goals;
- (2) Maximize consumer cost savings;
- (3) Enable a competitive distribution system in which independent agents can trade and combine evolving services to meet customer needs;
- (4) Eliminate or reduce conflicts of interest in energy resource planning, delivery, and regulation;

provided further that the study shall include a long-term cost-benefit analysis of each model and the steps required to carry out each scenario for each county.”

(8) By amending section 9 to read as follows:

“SECTION 9. Provided that of the general fund appropriation for general administration (LBR902), the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2015-2016 and the [same] sum of \$395,240 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of labor and industrial relations; provided further that the department shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(9) By amending section 15 to read as follows:

“SECTION 15. Provided that of the general fund appropriation for LNR - natural and physical environment (LNR906), the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2015-2016 and the [same] sum of \$385,868 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of land and natural resources; provided further that the department shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(10) By adding a new section to read as follows:

“SECTION 16.1. Provided that:

- (1) If the Hawaii health systems corporation's three Maui region hospital facilities have been leased to the Maui Health System, a Kaiser Foundation Hospital LLC, pursuant to Act 103, Session Laws of Hawaii 2015, the board of directors of the Hawaii health system corporation shall prepare a plan to reduce expenditures under Hawaii health systems corporation - corporate office (HTH210) for

each fiscal year of the fiscal biennium 2017-2019, that reflects the discontinuance of the direct delivery of health care services at the Maui regional system's three hospital facilities pursuant to Act 103 but does not negatively impact the remaining regions;

- (2) Provided further that in addition to the proposed reduction of expenditures, the plan shall explain and justify any inability of the board of directors to reduce expenditures of the corporate office by the same amount as the assessment previously imposed on the Maui regional system for those expenditures; and
- (3) The board of directors shall submit the plan to the legislature and governor no later than November 1, 2016."

(11) By adding a new section to read as follows:

"SECTION 16.2. Provided that the legislature has confirmed in a conference committee report that the Maui Health System, a Kaiser Foundation Hospital LLC, has satisfied all of the standards and conditions in section 323F-58 and 323F-59, Hawaii Revised Statutes, for operating support and capital support, respectively, and the Hawaii health systems corporation's three Maui region hospital facilities have been leased to Maui Health System, a Kaiser Foundation Hospital LLC, pursuant to Act 103, Session Laws of Hawaii 2015;

- (1) Of the general fund appropriation for the Hawaii health systems corporation - regions (HTH212) for the fiscal year 2016-2017, the sum of \$33,400,000 or so much thereof as may be necessary, and of the general obligation bond fund appropriation for the Hawaii health system corporation - regions (HTH212) for the fiscal year 2016-2017, the sum of \$6,000,000 or so much thereof as may be necessary, shall be disbursed by the Hawaii health systems corporation, to the Maui Health System, a Kaiser Foundation Hospital LLC, for its fiscal year 2016-2017 operating costs (\$33,400,000 general funds) and capital improvement costs (\$6,000,000 general obligation bond funds), respectively; and
- (2) Of the special fund appropriation for the Hawaii health systems corporation - regions (HTH212) for fiscal year 2016-2017, the sum of \$10,000,000 or so much thereof as may be deposited as cash in the Maui regional system board's bank accounts or the subaccount of the health systems special fund on or after the effective date of the lease of the Hawaii health systems corporation's three Maui region hospital facilities pursuant to Act 103, Session Laws of Hawaii 2015, shall be disbursed by the Maui regional system board, to the Maui Health System, a Kaiser Foundation Hospital LLC, for its fiscal year 2016-2017 working capital, provided further that if less than \$10,000,000 is available in the Maui regional system board's subaccount for this disbursement, then of the general fund appropriation for the Hawaii health systems corporation - regions (HTH212) for the fiscal year 2016-2017, the sum of \$10,000,000 shall be disbursed by the board of directors of the Hawaii health systems corporation:
  - (A) First, to the Maui Health System, a Kaiser Foundation Hospital LLC, to make up any shortfall, if the sum disbursed for working capital out of the Maui regional system board's bank accounts and subaccount of the health systems special fund was less than \$10,000,000; and
  - (B) Then, to one or more regional systems of the Hawaii health systems corporation as additional general fund operating subsidies, in accordance with guidelines or conditions established

by the board, including the discretion to refrain from making a disbursement to a particular regional system; and

- (3) All other expenditures from the special fund appropriation for the Hawaii health systems corporation - regions (HTH212) for fiscal year 2016-2017 for the Maui region shall be limited to costs and expenses directly related to the implementation of Act 103, Session Laws of Hawaii 2015, including the winding down of the operations of the three Maui region hospital facilities, and the administration of the lease of the Hawaii health systems corporation's three Maui region hospital facilities to the Maui Health System, a Kaiser Foundation Hospital LLC, pursuant to section 323F-54(b)(3), Hawaii Revised Statutes."

(12) By adding a new section to read as follows:

"SECTION 16.3. Provided that in no case shall the appropriations from the general, special, or general obligation bond funds be disbursed to the Maui Health System, a Kaiser Foundation Hospital LLC, pursuant to section 16.2, if the Hawaii health systems corporation has not leased its three Maui region hospital facilities to the Maui Health System, a Kaiser Foundation Hospital LLC, pursuant to Act 103, Session Laws of Hawaii 2015; provided further that of the general fund appropriation for the Hawaii health systems corporation - regions (HTH212) for the fiscal year 2016-2017, the sum of \$10,000,000 shall be disbursed by the board of directors of the Hawaii health systems corporation in accordance with guidelines or conditions established by the board, including the discretion to refrain from making a disbursement to a particular regional system of the Hawaii health systems corporation, to one or more regional systems of the Hawaii health systems corporation as additional general fund operating subsidies."

(13) By adding a new section to read as follows:

"SECTION 16.4. Provided that:

- (1) The governor and director of health shall formulate a budget request for the Hawaii state hospital under adult mental health - inpatient (HTH430) for each fiscal year of the fiscal biennium 2017-2019 that fully funds anticipated operating deficits and precludes the need for interdepartmental transfers-in from adult mental health - outpatient (HTH420) or any other budget program ID of the department of health; and
- (2) The governor shall include the formulated budget request in the multi-year program and financial plan and executive budget for the fiscal biennium 2017-2019 that is submitted to the legislature before the regular session of 2017."

(14) By adding a new section to read as follows:

"SECTION 18.1. Provided that of the general fund appropriation for general administration (HTH907), the sum of \$1,175,370 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of health; provided further that the department shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made."

(15) By adding a new section to read as follows:

"SECTION 18.2. Provided that:

- (1) Of the general fund appropriation for fiscal year 2016-2017 for services to veterans (DEF112):
  - (A) Not more than \$500,000 shall be expended or encumbered for burial fee contracts between July 1, 2016 and December 31, 2016; and
  - (B) No general fund appropriation shall be expended or encumbered for burial fee contracts after December 31, 2016; except that a general fund appropriation may be encumbered for a contract for a burial that occurred before January 1, 2017, and that encumbered amount may be expended after December 31, 2016;
- (2) On December 31, 2016, general funds equaling the difference between \$500,000 and the general fund expenditure or encumbrance for contracts for burials that occurred before January 1, 2017 shall lapse into the general fund, notwithstanding any other law to the contrary; and
- (3) None of the federal fund appropriations for fiscal year 2016-2017 for services to veterans (DEF112) shall be expended for burial fee contracts."
- (16) By adding a new section to read as follows:  
"SECTION 19.1. Provided that:
  - (1) Of the general fund appropriation for rental assistance services (HMS222), \$1,055,928 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the state rent supplement program;
  - (2) Of the amount under paragraph (1), at least seventy-five per cent shall be expended for voucher payments to individuals and families for rental assistance; and
  - (3) The Hawaii public housing authority shall submit a report to the legislature by October 1, 2017 on its operation of and expenditures for the state rent supplement program during fiscal year 2016-2017, the percentage of the amount specified under paragraph (1) expended for voucher payments, and, if less than seventy-five per cent, an explanation for the shortfall."
- (17) By adding a new section to read as follows:  
"SECTION 20.1. Provided that of the general fund appropriation for homeless services (HMS224) for fiscal year 2016-2017, \$12,000,000 or so much thereof as may be necessary shall be expended for homeless services programs;
  - (1) Prior to November 1, 2016, the department of human services shall submit a report to the legislature detailing:
    - (A) The status of the current number of homeless individuals and families statewide, the level of services currently provided, and any available information on service outcomes;
    - (B) A plan for the disbursement of the amount specified under paragraph (1), including expected benchmarks on program outcomes, how benchmarks were determined, and how and when outcomes will be monitored and evaluated;
    - (C) A projection of the disbursement of resources required for the 2017-2019 biennium.
  - (2) The department of human services shall submit to the legislature a report including the expenditure of the amount specified under paragraph (1), the benchmarks identified in paragraph (2), and the variance between budgeted benchmarks and actual. The report shall be submitted to the legislature no later than November 30, 2017."

(18) By amending section 21 to read as follows:

“SECTION 21. Provided that of the general fund appropriation for planning and development for Hawaiian homesteads (HHL602), the sum of [\$9,632,000] \$17,144,374 for fiscal year 2015-2016 [and the same sum for fiscal year 2016-2017] shall be deposited into the Hawaiian home administration account to be expended only for [administrative] the department of Hawaiian home lands’ administration and operating expenses [of the department of Hawaiian home lands. This sum is provided in light of the ruling in the opinion of the Hawaii supreme court in Nelson v. Hawaiian Homes Commission, 127 Haw. 185, 198-203, 279, 292-297 (2012), that what constitutes “sufficient sums” for “administration and operating” expenses, as those terms are used in article XII, section 1 of the Hawaii State Constitution, is judicially determinable. This provision shall not be construed to establish any amount that the State may be legally required to appropriate in the Nelson litigation or any similar case, or the State’s position with regard thereto. In making this appropriation, the legislature does not intend to bind or limit the positions the attorney general or any of the defendants may assert in the Nelson litigation or any similar case.] for fiscal year 2015-2016, or to reimburse the department’s other special or trust funds for expenditures made from those funds to pay the department’s administration and operating expenses in fiscal year 2015-2016.”

(19) By adding a new section to read as follows:

“Section 21.1. Provided that the department of Hawaiian home lands shall not expend funds, other than general funds, federal funds, and other federal funds, for personal services.”

(20) By adding a new section to read as follows:

“SECTION 21.2. Provided that of the general fund appropriation for administration and operating support (HHL625), \$5,854,667 or so much thereof as may be necessary for fiscal year 2016-2017 shall be transferred to departmental administration and budget division (BUF101) for the fringe benefit costs of officers and employees of the department of Hawaiian home lands whose personal services costs are paid with general funds; and provided further that any unexpended funds appropriated for this purpose shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(21) By adding a new section to read as follows:

“SECTION 21.3. Provided that of the general fund appropriation for general administration (HMS904), the sum of \$1,041,568 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of human services; provided further that the department shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(22) By adding a new section to read as follows:

“SECTION 25.1. Provided that:

- (1) Of the general fund appropriation for instructional support (EDN200), \$500,000 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the operation of a declining balance debit card pilot project during school year 2016-2017;
- (2) Under the pilot project, the department of education shall issue declining balance debit cards to a group of teachers that may be used



by the teachers to purchase school supplies utilized for instruction of their students:

- (3) The department of education shall evaluate the benefits and detriments of the pilot project and submit a report of its evaluation to the legislature at least twenty days before the convening of the regular session of 2018. The report shall include a recommendation of whether to establish a permanent declining balance debit card program, to refrain from establishing a permanent program, or to continue the pilot project for further evaluation; and
- (4) Upon request of the department of education, the state procurement office shall assist the department in the establishment and evaluation of the pilot project to the best extent possible."

(23) By adding a new section to read as follows:

"SECTION 28.1. Provided that of the general fund appropriation for fiscal year 2016-2017 for ocean-based recreation (LNR801), \$344,256 or so much thereof as may be necessary shall be expended by the department of land and natural resources to operate all or some of the small boat harbors of the department for at least six days a week; provided further that the department shall submit an interim report to the legislature at least twenty days before the convening of the regular session of 2017 on the department's plan and actions to comply with this section and a final report to the legislature by November 1, 2017, with information and data on the results of operating the small boat harbors for at least six days a week."

(24) By adding a new section to read as follows:

"SECTION 28.2. Provided that of the general fund appropriation for general administration (PSD900), the sum of \$660,756 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of public safety; provided further that the department shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made."

(25) By adding a new section to read as follows:

"SECTION 29.1. Provided that of the general fund appropriation for amelioration of physical disasters (DEF110), the sum of \$253,503 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of defense; provided further that the department shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made."

(26) By amending section 31 to read as follows:

"SECTION 31. Provided that of the appropriation for the office of the governor (GOV100), the sum of \$116,652 or so much thereof as may be necessary in general funds for fiscal year 2015-2016 and the sum of \$59,321 or so much thereof as may be necessary in general funds for fiscal year 2016-2017 shall be used for the healthcare transformation program[:]; in fiscal year 2015-2016 and healthcare policy operating expenses in fiscal year 2016-2017; provided

further that the funds may be used for up to 4.00 temporary exempt positions to provide staff support for the healthcare transformation program[;] or healthcare policy operating expenses, as the case may be; provided further that no funds from other programs shall be transferred into GOV100 and expended for the healthcare transformation program or its staff[;] or healthcare policy operating expenses, as the case may be; and provided further that any funds not expended for this purpose shall lapse to the general fund.”

(27) By adding a new section to read as follows:

“SECTION 32.1. Provided that of the general fund appropriation for the office of the governor (GOV100), the sum of \$70,000 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the office of the governor; provided further that the office shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(28) By adding a new section to read as follows:

“SECTION 32.2. Provided that of the general fund appropriation for the office of the lieutenant governor (LTG100), the sum of \$31,391 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the office of the lieutenant governor; provided further that the office shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(29) By repealing section 33:

“[SECTION 33. Provided that of the general fund appropriation for departmental administration and budget division (BUF101), the sum of \$400,000 or so much thereof as may be necessary for fiscal year 2015-2016 and the same sum or so much thereof as may be necessary for fiscal year 2016-2017 shall be used for up to 10.00 temporary exempt positions to provide backfill staff support for departments where permanent staffing has been assigned to work on the implementation of the enterprise resource planning project; provided further that the positions and funds may be transferred to the departments requiring temporary staff support with the approval of the governor; provided further that the department shall prepare a report that lists the titles and duties of each of the 10.00 temporary positions, location of their deployment, budgeted salaries, and the role for each position in the overall office of information management and technology project plan; and provided further that the department of budget and finance shall submit this report to the legislature no later than twenty days prior to the convening of the 2016 and 2017 regular sessions.]”

(30) By adding a new section to read as follows:

“SECTION 33.1. Provided that of the general fund appropriation for economic planning and research (BED130), the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended to conduct a study on the effects of county real property tax rates on the distribution of revenues and expenses between state and county.”

(31) By adding a new section to read as follows:

“SECTION 33.2. Provided that of the general fund appropriation for departmental administration and budget division (BUF101), the sum of \$309,897 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of budget and finance; provided further that the department shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(32) By adding a new section to read as follows:

“SECTION 33.3. Provided that of the interdepartmental transfers appropriation for departmental administration and budget division (BUF101):

- (1) \$5,854,667 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the fringe benefit costs of officers and employees of the department of Hawaiian home lands whose personal services costs are paid with general funds;
- (2) The director of finance shall apportion the amount under paragraph (1) between retirement benefits payments - State (BUF741) and health premium payments - State (BUF761) and then transfer the pertinent amounts to those program IDs for payment of the fringe benefit costs of the officers and employees specified under paragraph (1); and
- (3) The director of finance shall submit a report to the legislature at least twenty days prior to the convening of the regular session of 2017 on the actions taken pursuant to this section.”

(33) By adding a new section to read as follows:

“SECTION 38.1. Provided that of the general fund appropriation for supporting services - revenue collection (TAX107), the sum of \$271,755 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of taxation; provided further that the department shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(34) By amending section 39 to read as follows:

“SECTION 39. Provided that of the general fund appropriations for debt service payments (BUF721-BUF728), the following sums specified in fiscal biennium 2015-2017 shall be expended for principal and interest payments on general obligation bonds only as follows:

<u>Program I.D.</u>	<u>FY 2015-2016</u>	<u>FY 2016-2017</u>
BUF721	\$334,601,504	<del>[\$359,412,019]</del> \$348,779,569
BUF725	\$288,542,702	<del>[\$309,937,982]</del> \$300,769,119
BUF728	\$106,789,267	<del>[\$114,707,632;]</del> \$111,314,248;

provided further that unrequired balances may be transferred only to retirement benefits payments (BUF741-BUF748) and health premium payments (BUF761-

BUF768); provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse into the general fund at the end of the respective fiscal year for which the appropriation was made.”

(35) By amending section 40 to read as follows:

“SECTION 40. Provided that of the general fund appropriation for legal services (ATG100), the sum of \$280,000 or so much thereof as may be necessary for fiscal year 2015-2016 and the ~~[same]~~ sum of \$281,914 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of the attorney general; provided further that the department shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

(36) By amending section 41 to read as follows:

“SECTION 41. Provided that, of the appropriation for information management and technology (AGS130):

(1) The following amounts may be expended by the chief information officer for any of the projects listed under paragraph (2) and for no other purpose:

(A) ~~[\$6,100,000]~~ \$5,868,839 in general funds, \$1,800,000 in special funds, \$7,700,000 in federal funds, ~~[\$600,000]~~ \$151,276 in other federal funds, and \$100,000 in revolving funds in fiscal year 2015-2016; and

(B) \$5,500,000 in general funds, \$1,600,000 in special funds, \$15,200,000 in federal funds, and \$80,000 in revolving funds in fiscal year 2016-2017;

(2) The projects, the amounts under paragraph (1) for which may be expended, are the following:

(A) Information technology system upgrades and repair and maintenance for rabies quarantine (AGR131);

(B) Datamart upgrades for information processing and communication services (AGS131);

(C) Statewide voter registration system for the office of elections (AGS879);

(D) ~~[Child support enforcement (keiki) system modernization feasibility study for child support enforcement services (ATG500);~~

~~(E)]~~ Computer hardware and software compliance upgrade for the Hawaii housing finance and development corporation (BED160);

~~[(F)]~~ (E) ALIAS project completion for professional and vocational licensing (CCA105);

~~[(G)]~~ (F) Complaints management system replacement for regulated industries complaints office (CCA112);

~~[(H)]~~ (G) Student information system for state administration (EDN300);

~~[(I)]~~ (H) Security management and compliance plan administration and monitoring for general support for health care payments (HMS902);

~~[(J)]~~ (I) Kauhale on-line eligibility assistance (KOLEA) system maintenance and operation for general support for health care payments (HMS902); and

~~[(K)]~~ (J) Information technology system conversion for general administration (TRN995);

(3) Before expending any amount for a project listed under paragraph (2), the chief information officer shall consult with the governor and all administrative heads of the departments or agencies with jurisdiction over the listed projects;

(4) The chief information officer, with the approval of the governor, shall identify the ~~[non-general]~~ funds to be expended on the projects, and:

(A) The governor shall direct the administrative heads of the departments or agencies with jurisdiction over the projects to expend the identified ~~[non-general]~~ funds as required by the chief information officer; or

(B) Alternatively, the chief information officer, with the approval of the governor, may delegate to the administrative head of a department or agency the authority to expend the identified ~~[non-general]~~ funds for a project in accordance with the chief information officer's direction.

For the purpose of this paragraph, the chief information officer shall comply with any matching requirement for the expenditure of federal funds or other federal funds;

(5) When directing or authorizing the expenditure for the listed projects, the chief information officer, to the fullest extent possible, shall strive for a commonality and efficiency of information technology systems;

(6) The governor, after consultation with the chief information officer, may establish not more than 5.00 temporary positions exempt from the civil service and assign them to assist departments or agencies with projects funded under this section;

(7) If any part of the amount specified under paragraph (1) becomes unnecessary because of completion, delay, or abandonment of a project or other reason, the chief information officer shall notify the legislature in the report required under paragraph (9);

(8) The difference between the amount specified under paragraph (1)(A) or (B) for a fiscal year and the amount expended or encumbered for the projects listed under paragraph (2) for that fiscal year shall lapse on June 30 of that fiscal year and shall not be expended by the chief information officer for any other purpose; and

(9) The chief information officer shall submit a report to the legislature not later than twenty days prior to the convening of the regular session of 2016 on the expenditures made under this section and a discussion of the operational and financial feasibility of sustaining such a process as a means of increasing oversight and transparency and better managing of the state's information systems.

(37) By adding a new section to read as follows:

"SECTION 42.1. Provided that of the general fund appropriation for supporting services (HRD191), the sum of \$97,483 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of human resources development; provided further that the department shall first make payments from the vacation payout allocation before expending funds

from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made."

(38) By amending section 43 to read as follows:

"SECTION 43. Provided that of the general fund appropriations for retirement benefits payments (BUF741-BUF748), the following sums specified in fiscal biennium 2015-2017 shall be expended for the state employer's share of the employee's retirement pension accumulation and<sup>3</sup> social security/Medicare payment for employees only as follows:

<u>Program I.D.</u>	<u>FY 2015-2016</u>	<u>FY 2016-2017</u>
BUF741	\$324,178,407	<del>[\$339,924,601]</del> <u>\$337,213,979</u>
BUF745	\$311,975,236	<del>[\$327,495,734]</del> <u>\$321,869,442</u>
BUF748	\$143,117,530	<del>[\$146,188,884]</del> <u>\$140,814,522;</u>

provided further that unrequired balances may be transferred only to debt service payments (BUF721-BUF728) and health premium payments (BUF761-BUF768); provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund at the end of the respective fiscal year for which the appropriation was made."

(39) By amending section 44 to read as follows:

"SECTION 44. Provided that of the general fund appropriation for health premium payments - state (BUF761), the sum of \$163,615,000 or so much thereof as may be necessary for fiscal year 2015-2016 and the sum of ~~[\$245,812,000]~~ \$327,749,500 or so much thereof as may be necessary for fiscal year 2016-2017 shall be used to provide payments to pre fund<sup>4</sup> other post-employment benefits for the Hawaii employer union<sup>5</sup> health benefits trust fund; provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund."

(40) By amending section 45 to read as follows:

"SECTION 45. Provided that of the general fund appropriations for health premium payments (BUF761-BUF768), the following sums specified in fiscal biennium 2015-2017 shall be expended for the state employer's share of health premiums for active employees and retirees only as follows:

<u>Program I.D.</u>	<u>FY 2015-2016</u>	<u>FY 2016-2017</u>
BUF761	\$230,455,109	<del>[\$248,202,116]</del> <u>\$250,386,219</u>
BUF765	\$245,577,984	<del>[\$268,641,012]</del> <u>\$268,924,144</u>
BUF768	\$91,093,213	<del>[\$96,912,969;]</del> <u>\$96,682,974;</u>

provided further that unrequired balances may be transferred only to debt service payments (BUF721-BUF728) and retirement benefits payments (BUF741-BUF748); provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse into the general fund at the end of the respective fiscal year for which the appropriation was made."

(41) By adding a new section to read as follows:

“SECTION 45.1. Provided that of the special fund appropriation for public lands management (LNR101) for fiscal year 2016-2017, \$3,000,000 or so much thereof as may be necessary from the special land and development special fund may be expended under LNR101 or transferred into any other LNR program id for expenditure under that program id; provided further that the above amount shall be expended by the respective programs in accordance with the Hawaii tourism authority’s strategic plan consistent with the provisions of section 237-6.5(b)(5)<sup>6</sup>. Hawaii Revised Statutes.”

(42) By adding a new section to read as follows:

“SECTION 45.2. Provided that of the general fund appropriation for general administrative services (AGS901), the sum of \$532,616 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for the purpose of accrued vacation payments for all employees leaving the employ of the department of accounting and general services; provided further that the department shall first make payments from the vacation payout allocation before expending funds from turnover and vacancy amounts; provided further that the respective non-general fund shall reimburse the general fund for any payments made for accrued vacation payments; and provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which the appropriation was made.”

SECTION 5. Part IV, Act 119, Session Laws of Hawaii 2015, is amended by amending section 47 to read as follows:

“SECTION 47. CAPITAL IMPROVEMENT PROJECTS AUTHORIZED. The sums of money appropriated or authorized in part II of this Act for capital improvements shall be expended for the projects listed below. Accounting of the appropriations by the department of accounting and general services shall be based on the projects as such projects are listed in this section. Several related or similar projects may be combined into a single project if such combination is advantageous or convenient for implementation; and provided further that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars).

#### CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F

#### A. ECONOMIC DEVELOPMENT

##### BED105 - CREATIVE INDUSTRIES DIVISION

##### 1. KAUAI ECONOMIC DEVELOPMENT BOARD, KAUAI

PLANS AND CONSTRUCTION OF THE NEW KAUAI CREATIVE TECHNOLOGY CENTER, A FILM INDUSTRY JOB TRAINING AND WORKFORCE DEVELOPMENT HUB WITH FACILITIES AND PROGRAMS FOR FILMING, EDITING, PERFORMANCES, CO WORKING AND MORE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.

PLANS	250
CONSTRUCTION	250
TOTAL FUNDING	500C

C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
1.01.	CID005	HAWAII FILM STUDIO, VARIOUS SITE IMPROVEMENTS, PHASE 3A, OAHU			
		DESIGN AND CONSTRUCTION OF VARIOUS IMPROVEMENTS TO THE HAWAII FILM STUDIO.			
		DESIGN			35
		CONSTRUCTION			765
		TOTAL FUNDING	AGS	C	800C
<b>BED107 - FOREIGN TRADE ZONE</b>					
2.	FTZ018	FACILITY IMPROVEMENT AND ADA RETROFIT, FTZ, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR FACILITY IMPROVEMENTS AND RETROFIT OF RESTROOMS, WALKWAYS AND OFFICE AREAS TO MEET ADA REQUIREMENTS.			
		PLANS		25	
		DESIGN		120	
		CONSTRUCTION		1,175	
		TOTAL FUNDING	BED	1,320C	C
3.	FTZ017	FTZ ELEVATOR REPLACEMENT, OAHU			
		CONSTRUCTION AND EQUIPMENT FOR EXISTING ELEVATOR REPLACEMENT TO MEET STATE (GOVERNMENT) BUILDING ADA ACCESSIBILITY AND COMPLIANCE WITH RELATED STANDARDS AND REGULATIONS.			
		CONSTRUCTION		510	
		EQUIPMENT		340	
		TOTAL FUNDING	BED	850C	C
3.01.	FTZ019	FOREIGN-TRADE ZONE CHILLER REPLACEMENT PROJECT, OAHU			
		PLANS, CONSTRUCTION AND EQUIPMENT FOR THE REPLACEMENT OF THE FOREIGN-TRADE ZONE'S THREE AGING A/C CHILLER UNITS.			
		PLANS			30
		CONSTRUCTION			170
		EQUIPMENT			800
		TOTAL FUNDING	BED	D	1,000D
<b>LNR172 - FORESTRY - RESOURCE MANAGEMENT AND DEVELOPMENT</b>					
4.	D02C	PUU WAAWAA STRUCTURE IMPROVEMENTS AND DAM COMPLIANCE, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR PUU WAAWAA STRUCTURE IMPROVEMENTS AND DAM COMPLIANCE.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			998
		TOTAL FUNDING	LNR	C	1,000C



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
AGR141 - AGRICULTURAL RESOURCE MANAGEMENT					
5.	200402	MOLOKAI IRRIGATION SYSTEM IMPROVEMENTS, MOLOKAI			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE MOLOKAI IRRIGATION SYSTEM.			
		DESIGN		1	300
		CONSTRUCTION		1,199	3,200
		TOTAL FUNDING	AGR	1,200 C	3,500 C
7.		KAMUELA VACUUM COOLING PLANT, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR INFRASTRUCTURE AND BUILDING OF A POST-HARVEST FACILITY AND VACUUM COOLING PLANT.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		998	
		TOTAL FUNDING	AGR	1,000 C	C
7.01.	98002	LOWER HAMAKUA DITCH WATERSHED PROJECT, HAWAII			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE LOWER HAMAKUA DITCH SYSTEM, TOGETHER WITH APPURTENANT WORKS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN			500
		CONSTRUCTION			3,500
		TOTAL FUNDING	AGR	C	2,000 C
			AGR	N	2,000 N
7.02.	SW0602	STATE IRRIGATION SYSTEM RESERVOIR SAFETY IMPROVEMENTS, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR THE STATE IRRIGATION SYSTEM RESERVOIR SAFETY IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN			1,998
		CONSTRUCTION			2
		TOTAL FUNDING	AGR	C	1,000 C
			AGR	N	1,000 N
7.03.		EAST MAUI WATER SYSTEMS, MAUI			
		PLANS, DESIGN AND CONSTRUCTION FOR IRRIGATION AND WATER DELIVERY SYSTEMS FOR AGRICULTURAL ENTERPRISES AND/OR AGRICULTURAL PURPOSES IN EAST MAUI.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			1,498
		TOTAL FUNDING	AGR	C	1,500 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
7.04.		GALBRAITH IRRIGATION SYSTEM UPGRADES AND IMPROVEMENTS, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR UPGRADES AND IMPROVEMENT TO THE GALBRAITH IRRIGATION SYSTEM TO INCLUDE THE CONSTRUCTION OF A 3 MILLION GALLON AND 10 MILLION GALLON RESERVOIR, AND INSTALLATION OF A PUMPING SYSTEM.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			12,997
		EQUIPMENT			1
		TOTAL FUNDING	AGR	C	13,000 C
7.05.		KEKAHA IRRIGATION SYSTEM, KAUAI			
		CONSTRUCTION FOR UPGRADES AND IMPROVEMENTS TO THE KEKAHA IRRIGATION SYSTEM.			
		CONSTRUCTION			5,000
		TOTAL FUNDING	AGR	C	5,000 C
AGR161 - AGRIBUSINESS DEVELOPMENT AND RESEARCH					
8.		AGRICULTURAL LAND, OAHU			
		PLANS, LAND ACQUISITION AND DESIGN FOR LAND ACQUISITION ON OAHU: TMK 7-1-02-32; 7-1-02-06; 7-1-02-34; 9-5-03-07; 6-5-02-11.			
		PLANS			1
		LAND		9,998	
		DESIGN		1	
		TOTAL FUNDING	AGR	10,000 C	C
8.01.		ZERO WASTE CONVERSION, HAWAII			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE KEAAU FACILITY TO DEVELOP BIOFUEL AND ANIMAL FEED IN KEAAU, HAWAII.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			1,497
		EQUIPMENT			1
		TOTAL FUNDING	AGR	C	1,500 C
8.02.		LIVE STOCK FEED MILL, OAHU			
		CONSTRUCTION AND EQUIPMENT FOR THE ESTABLISHMENT OF A FEED MILL TO BE LOCATED IN THE VICINITY OF CAMPBELL INDUSTRIAL PARK, OAHU. PROJECT TO INCLUDE SITE WORK AND ALL PROJECT RELATED COSTS.			
		CONSTRUCTION			400
		EQUIPMENT			3,600
		TOTAL FUNDING	AGR	C	4,000 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
8.03.		AGRICULTURAL LAND, OAHU			
		PLANS, LAND ACQUISITION AND DESIGN FOR LAND ACQUISITION ON OAHU: TMKS 6-4-003-003; 6-5-002-011; 6-5-002-006; 6-5-002-008; 6-5-002-027; 6-5-002-028; 6-5-001-046.			
		PLANS			1,000
		LAND			29,500
		DESIGN			1,000
		TOTAL FUNDING	AGR	C	31,500 C
8.04.		WHITMORE PROJECT MASTER PLAN, WAHIAWA, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A WHITMORE PROJECT MASTER PLAN AND OTHER FACILITY IMPROVEMENTS ON TMKS 7-1-02-09, 7-4-12-16, 7-1-02-04, AND 7-1-02-23. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			1,347
		EQUIPMENT			1
		TOTAL FUNDING	AGR	C	1,350 C
8.05.		THERMOPHILIC BIODIGESTER, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A THERMOPHILIC BIODIGESTER TO PROCESS BIOWASTE.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			948
		TOTAL FUNDING	AGR	C	950 C
<b>AGR192 - GENERAL ADMINISTRATION FOR AGRICULTURE</b>					
9.	981921	MISCELLANEOUS HEALTH, SAFETY, CODE AND OTHER REQUIREMENTS, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO ADDRESS HEALTH, SAFETY, CODE AND OTHER REQUIREMENTS, STATEWIDE.			
		DESIGN		100	350
		CONSTRUCTION		1,300	1,050
		TOTAL FUNDING	AGS	1,400 C	1,400 C
<b>LNR153 - FISHERIES MANAGEMENT</b>					
10.		PACIFIC AMERICAN FOUNDATION HAWAII, INC., OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW FACILITY FOR EDUCATION, RESEARCH AND EMPLOYMENT PROGRAMS IN KANEOHE, OAHU. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		PLANS		300	
		DESIGN		300	
		CONSTRUCTION		900	
		TOTAL FUNDING	LNR	1,500 C	C
10.01.	C01A	ANUENUE FISHERIES RESEARCH CENTER SEWERLINE, OAHU			
		PLANS, DESIGN AND CONSTRUCTION OF A NEW SEWERLINE CONNECTING TWO EXISTING RESTROOMS TO THE EXISTING CITY SEWER, INCLUDING A STUBOUT FOR FUTURE RESTROOM/SHOWER BUILDING.			
		PLANS			5
		DESIGN			60
		CONSTRUCTION			165
		TOTAL FUNDING	LNR	C	230 C
AGR153 - AQUACULTURE DEVELOPMENT PROGRAM					
10.02.		OCEANIC INSTITUTE OF HAWAII PACIFIC UNIVERSITY, OAHU			
		CONSTRUCTION FOR FEEDS RESEARCH AND PILOT PROJECT FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			350
		TOTAL FUNDING	AGR	C	350 C
BED143 - HIGH TECHNOLOGY DEVELOPMENT CORPORATION					
10.03.	TE0014	ENTREPRENEUR'S SANDBOX-KAKAAKO COLLABORATION CENTER, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR A FACILITY FOR THE HIGH TECHNOLOGY DEVELOPMENT CORPORATION ON OAHU.			
		DESIGN			1
		CONSTRUCTION			2,998
		EQUIPMENT			1
		TOTAL FUNDING	BED	C	3,000 C
10.04.		HYDROGEN FUEL STATION, OAHU			
		PLANS AND DESIGN FOR THE DEVELOPMENT OF AN ELECTROLYSIS HYDROGEN PRODUCTION, STORAGE AND DISPENSING FACILITY.			
		PLANS			1
		DESIGN			1,249
		TOTAL FUNDING	BED	E	1,250 E

## CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
10.05.		WHITMORE ECONOMIC DEVELOPMENT GROUP, OAHU			
		CONSTRUCTION AND EQUIPMENT FOR RENOVATIONS TO THE FORMER DOLE OFFICE BUILDING WITHIN THE WHITMORE AGRIBUSINESS TECH PARK. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			54
		EQUIPMENT			1
		TOTAL FUNDING	BED	C	55C
BED146 - NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY					
11.	NELHA4	IMPROVEMENTS TO THE RESEARCH CAMPUS, HAWAII			
		CONSTRUCTION FOR IMPROVEMENTS TO THE 6 ACRE RESEARCH CAMPUS IN THE HAWAII OCEAN SCIENCE AND TECHNOLOGY PARK (HOST PARK). IMPROVEMENTS ARE IN CONJUNCTION WITH PHASE II OF RECENTLY RENOVATED OLD ADMINISTRATION BUILDING USING FEDERAL, REIMBURSABLE GO BONDS AND SPECIAL FUNDS INTO A CLEAN ENERGY AND MARINE SCIENCE INCUBATOR ACCELERATOR. FUNDS WILL BE USED FOR PHASE II BUILDING IMPROVEMENTS.			
		CONSTRUCTION		330	
		TOTAL FUNDING	BED	330C	C
11.01.	NELHA5	IMPROVEMENTS AND UPGRADES TO SEAWATER SYSTEM, HAWAII			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR PUMPS AND ASSOCIATED HARDWARE INCLUDING RENEWABLE ENERGY AS WELL AS EQUIPMENT CONTROL AND MONITORING SOFTWARE WHICH PROVIDES SURFACE AND DEEP-SEA WATER THROUGHOUT THE HAWAII OCEAN SCIENCE AND TECHNOLOGY PARK (HOST PARK) LOCATED IN KAILUA KONA, HAWAII. ALSO ACCOMMODATIONS FOR TWO OTEC PLANTS.			
		DESIGN			1
		CONSTRUCTION			1,170
		EQUIPMENT			4,029
		TOTAL FUNDING	BED	D	5,200D

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F

## LNR141 - WATER AND LAND DEVELOPMENT

## 12. J45 ROCKFALL AND FLOOD MITIGATION, STATEWIDE

PLANS, DESIGN AND CONSTRUCTION FOR ROCKFALL AND FLOOD MITIGATION AT VARIOUS LOCATIONS, STATEWIDE. THE LEGISLATURE FINDS AND DECLARES THAT THE APPROPRIATION IS IN THE PUBLIC INTEREST AND FOR THE PUBLIC'S HEALTH, SAFETY AND GENERAL WELFARE OF THE STATE.

PLANS	1	1
DESIGN	1	1
CONSTRUCTION	2,998	2,998
TOTAL FUNDING LNR	3,000 C	3,000 C

## 13. G54A ALA WAI CANAL DREDGING, OAHU

CONSTRUCTION FOR DREDGING AND RELATED IMPROVEMENTS.

CONSTRUCTION		13,000
TOTAL FUNDING LNR	C	13,000 C

## 14. EKU STREAM FLOOD CONTROL AND DRAINAGE IMPROVEMENTS, PHASE 1, OAHU

PLANS AND DESIGN FOR FLOOD CONTROL AND DRAINAGE IMPROVEMENTS TO EKU STREAM.

PLANS	1	
DESIGN	249	
TOTAL FUNDING LNR	250 C	C

## 14.01. PEEKAUAI DITCH MAINTENANCE, WAIMEA VALLEY, KAUAI

CONSTRUCTION FOR DITCH MAINTENANCE AT PEEKAUAI.

CONSTRUCTION		200
TOTAL FUNDING LNR	C	200 C

## BED150 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY

## 15. HCD001 HAWAII COMMUNITY DEVELOPMENT AUTHORITY'S COMMUNITY DEVELOPMENT DISTRICTS, OAHU

PLANS FOR COSTS RELATED TO WAGES AND FRINGE BENEFITS FOR PERMANENT AND NON-PERMANENT PROJECT-FUNDED STAFF POSITIONS FOR IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY'S COMMUNITY DEVELOPMENT DISTRICTS. FUNDS MAY BE USED TO MATCH FEDERAL AND NON-STATE FUNDS AS MAY BE AVAILABLE.

PLANS	1,855	1,450
TOTAL FUNDING BED	1,855 C	C
BED	A	1,450 A

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
16.	KA013	HAWAII COMMUNITY DEVELOPMENT AUTHORITY, OAHU			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE RENOVATION AND PRESERVATION OF TWO REMAINING STRUCTURES OF THE OLD PUMP STATION AND PREP FOR PROGRAMS IN THE STRUCTURES.			
		PLANS		80	
		LAND		10	
		DESIGN		20	
		CONSTRUCTION		1,300	
		EQUIPMENT		90	
		TOTAL FUNDING	BED	1,500C	C
16.01.	KL08A	KALAELOA ENERGY CORRIDOR, KALAELOA, OAHU			
		DESIGN AND CONSTRUCTION FOR COMPLETION OF AN UNDERGROUND ELECTRICAL DISTRIBUTION SYSTEM BETWEEN KAPOLEI PARKWAY AND MIDWAY ROADS.			
		DESIGN			500
		CONSTRUCTION			2,500
		TOTAL FUNDING	BED	C	3,000C
<b>BED160 - HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION</b>					
17.		RENTAL HOUSING TRUST FUND INFUSION, STATEWIDE			
		CONSTRUCTION TO PROVIDE AN INFUSION OF FUNDS TO FINANCE ADDITIONAL AFFORDABLE RENTAL HOUSING STATEWIDE.			
		CONSTRUCTION		40,000	
		TOTAL FUNDING	BED	40,000C	C
18.	HFDC04	902 ALDER STREET, HONOLULU, OAHU			
		PLANS AND DESIGN FOR A MIXED-USE AFFORDABLE RENTAL HOUSING AND MULTI-USE JUVENILE SERVICES AND SHELTER CENTER AT 902 ALDER STREET, TMK (1) 2-3-012-019.			
		PLANS		1	
		DESIGN		1,699	
		TOTAL FUNDING	BED	1,700C	C
18.01.	HFDC05	DWELLING UNIT REVOLVING FUND INFUSION, STATEWIDE			
		CONSTRUCTION TO PROVIDE AN INFUSION OF FUNDS TO FINANCE ADDITIONAL AFFORDABLE HOUSING, STATEWIDE.			
		CONSTRUCTION			25,000
		TOTAL FUNDING	BED	C	25,000C

## CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
18.02.	P11003	LOW INCOME HOUSING TAX CREDIT LOANS, STATEWIDE			
		CONSTRUCTION TO PROVIDE LOW-INCOME HOUSING TAX CREDIT LOANS PURSUANT TO SECTION 201H, HAWAII REVISED STATUTES.			
		CONSTRUCTION			4,230
		TOTAL FUNDING	BED	C	4,230 C
18.03.	HFDC07	WAIHAOLE WATER SYSTEM IMPROVEMENTS, OAHU			
		DESIGN AND CONSTRUCTION TO IMPROVE THE WAIHAOLE WATER SYSTEM INFRASTRUCTURE TO BOARD OF WATER SUPPLY STANDARDS.			
		DESIGN			470
		CONSTRUCTION			6,030
		TOTAL FUNDING	BED	C	6,500 C
18.04.	HFDC09	CASH INFUSION FOR RENTAL HOUSING REVOLVING FUND, STATEWIDE			
		CONSTRUCTION TO PROVIDE AN INFUSION OF FUNDS TO FINANCE ADDITIONAL AFFORDABLE RENTAL HOUSING STATEWIDE.			
		CONSTRUCTION			36,600
		TOTAL FUNDING	BED	C	36,600 C
18.05.		HALE MAHAOLU, MAUI			
		DESIGN AND CONSTRUCTION FOR A SENIOR AFFORDABLE RENTAL HOUSING CAMPUS AT THE KULAMALU TOWN CENTER SUBDIVISION. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN			1
		CONSTRUCTION			1,499
		TOTAL FUNDING	BED	C	1,500 C

## B. EMPLOYMENT

## LBR111 - WORKFORCE DEVELOPMENT

## 1. WORKFORCE DEVELOPMENT, HAWAII

PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A MULTI-PURPOSE PROCESSING FACILITY.

PLANS	50	
LAND	8,250	
DESIGN	50	
CONSTRUCTION	100	
EQUIPMENT	50	
TOTAL FUNDING	8,500 C	C



## CAPITAL IMPROVEMENT PROJECTS

				APPROPRIATIONS (IN 000'S)	
ITEM	CAPITAL PROJECT		EXPENDING	FISCAL M	FISCAL M
NO.	NO.	TITLE	AGENCY	YEAR O	YEAR O
				2015-2016 F	2016-2017 F
LBR903 - OFFICE OF COMMUNITY SERVICES					
2.		BIKESHARE HAWAII, OAHU			
		EQUIPMENT TO LAUNCH STATE-OF-THE-ART BIKE SHARING SYSTEM IN HAWAII. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		EQUIPMENT		100	
		TOTAL FUNDING LBR		100 C	C
3.		HAWAII UNITED OKINAWA ASSOCIATION, OAHU			
		CONSTRUCTION FOR RENOVATION OF FLOOR, STAGE AND LIGHTING AREAS IN THE PERFORMING ARTS FACILITIES FOR HAWAII OKINAWA CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		140	
		TOTAL FUNDING LBR		140 C	C
5.		YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF OAHU, OAHU			
		CONSTRUCTION FOR A NEW ROOF FOR MIDKIFF GYMNASIUM AT KOKOKAHI YWCA. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		300	
		TOTAL FUNDING LBR		300 C	C
5.01.		ANEKONA OULI KANEHOA VFD COMPANY, HAWAII			
		CONSTRUCTION FOR A VOLUNTEER APPARATUS GARAGE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			88
		TOTAL FUNDING LBR		C	88 C
5.02.		BOY SCOUTS OF AMERICA, ALOHA COUNCIL, OAHU			
		CONSTRUCTION FOR BOY SCOUT CAMP IMPROVEMENTS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			1,000
		TOTAL FUNDING LBR		C	1,000 C
5.03.		HAWAII KOREAN CULTURAL CENTER, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR KOREAN CULTURAL CENTER. THIS PROJECT QUALIFIES AS A GRANT PURSUANT TO CHAPTER 42F, HRS.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			998
		TOTAL FUNDING LBR		C	1,000 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
5.04.		HAWAII PROFESSIONAL FIREFIGHTERS FOUNDATION, OAHU			
		PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR THE PALAMA FIRE STATION IN KALIHI. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS			1
		LAND			1
		DESIGN			1
		CONSTRUCTION			92
		TOTAL FUNDING	LBR	C	95C
5.05.		HAWAIIAN HUMANE SOCIETY, OAHU			
		CONSTRUCTION FOR A NEW SPAY NEUTER CLINIC. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			350
		TOTAL FUNDING	LBR	C	350C
5.06.		HONOLULU ACADEMY OF ARTS, OAHU			
		CONSTRUCTION FOR A COMMUNITY ART LEARNING SPACE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			700
		TOTAL FUNDING	LBR	C	700C
5.07.		KAUPO COMMUNITY ASSOCIATION, INC., MAUI			
		DESIGN AND CONSTRUCTION FOR THE RESTORATION OF OLD KAUPU SCHOOL FOR COMMUNITY CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN			1
		CONSTRUCTION			974
		TOTAL FUNDING	LBR	C	975C
5.08.		LANAKILA PACIFIC, OAHU			
		CONSTRUCTION FOR RENOVATION ON ELEVATOR AND HANDICAPPED ACCESS IMPROVEMENTS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			115
		TOTAL FUNDING	LBR	C	115C
5.09.		LYMAN HOUSE MEMORIAL MUSEUM, HAWAII			
		CONSTRUCTION FOR NEW ISLAND HERITAGE GALLERY EXHIBIT. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			500
		TOTAL FUNDING	LBR	C	500C

## CAPITAL IMPROVEMENT PROJECTS

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5.10.		POI DOGS & POPOKI, OAHU EQUIPMENT FOR MOBILE PET WELLNESS CLINIC. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. EQUIPMENT			190
		TOTAL FUNDING	LBR	C	190C
5.11.		SPECIAL OLYMPICS HAWAII, INC., OAHU CONSTRUCTION OF MULTI-PURPOSE FACILITY AND FITNESS BUILDING IN WEST OAHU. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. CONSTRUCTION			700
		TOTAL FUNDING	LBR	C	700C
5.12.		THE 442ND VETERANS CLUB, OAHU PLANS FOR THE 442ND LEGACY CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. PLANS			150
		TOTAL FUNDING	LBR	C	150C
5.13.		THE FILIPINO COMMUNITY CENTER, INC., OAHU PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR FACILITY INFRASTRUCTURE IMPROVEMENTS AT THE FILIPINO COMMUNITY CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. PLANS			1
		DESIGN			1
		CONSTRUCTION			47
		EQUIPMENT			1
		TOTAL FUNDING	LBR	C	50C
5.14.		YMCA OF HONOLULU, OAHU CONSTRUCTION FOR PHASE I RENOVATIONS TO THE WAIPAHU SMOKESTACK. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. CONSTRUCTION			200
		TOTAL FUNDING	LBR	C	200C
5.15.		YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF OAHU, OAHU CONSTRUCTION FOR FACILITY RENOVATIONS FOR YOUNG WOMEN'S CHRISTIAN ASSOCIATION, LANIAKEA FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. CONSTRUCTION			520
		TOTAL FUNDING	LBR	C	520C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F

## C. TRANSPORTATION FACILITIES

## TRN102 - HONOLULU INTERNATIONAL AIRPORT

1. A23R HONOLULU INTERNATIONAL AIRPORT, RUNWAY 8L WIDENING AND LIGHTING IMPROVEMENTS, OAHU  
 CONSTRUCTION FOR RUNWAY 8L WIDENING, LIGHTING AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.  
 CONSTRUCTION 30,000 11,500  
 TOTAL FUNDING TRN B 11,500 B  
 TRN 9,750 E E  
 TRN 20,250 N N
2. A23S HONOLULU INTERNATIONAL AIRPORT, AIRCRAFT APRON RECONSTRUCTION, OAHU  
 DESIGN AND CONSTRUCTION FOR THE RECONSTRUCTION OF AIRCRAFT APRONS.  
 DESIGN 2,300  
 CONSTRUCTION 20,400  
 TOTAL FUNDING TRN 2,300 E 20,400 E
3. A08D HONOLULU INTERNATIONAL AIRPORT, RE-ROOF TERMINAL, OAHU  
 CONSTRUCTION FOR THE RE-ROOFING OF THE EWA AND DIAMOND HEAD CONCOURSES AND OTHER RELATED IMPROVEMENTS.  
 CONSTRUCTION 12,000  
 TOTAL FUNDING TRN 12,000 E E
4. A24C HONOLULU INTERNATIONAL AIRPORT, PEDESTRIAN BRIDGE REPLACEMENT AND/OR REHABILITATION, OAHU  
 CONSTRUCTION FOR THE REPLACEMENT AND/OR REHABILITATION OF THE PEDESTRIAN BRIDGES BETWEEN THE OVERSEAS TERMINAL AND THE OVERSEAS TERMINAL PARKING STRUCTURE AND OTHER RELATED IMPROVEMENTS.  
 CONSTRUCTION 3,000 17,850  
 TOTAL FUNDING TRN 3,000 E 17,850 E
5. A23M HONOLULU INTERNATIONAL AIRPORT, WATERLINE IMPROVEMENTS, OAHU  
 DESIGN FOR THE UPGRADE OR REPLACEMENT OF EXISTING WATERLINES AND OTHER RELATED IMPROVEMENTS.  
 DESIGN 1,000  
 TOTAL FUNDING TRN 1,000 E E

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
6.	A16A	HONOLULU INTERNATIONAL AIRPORT, INTERNATIONAL ARRIVALS BUILDING ROOF IMPROVEMENTS, OAHU DESIGN FOR INTERNATIONAL ARRIVALS BUILDING ROOF IMPROVEMENTS. DESIGN		2,000	
		TOTAL FUNDING	TRN	2,000E	E
7.	A26B	HONOLULU INTERNATIONAL AIRPORT, RE-ROOF T-HANGAR, OAHU DESIGN FOR THE RE-ROOFING OF T-HANGARS. DESIGN		500	
		TOTAL FUNDING	TRN	500E	E
8.	A10C	HONOLULU INTERNATIONAL AIRPORT, ROADWAY IMPROVEMENTS, OAHU DESIGN AND CONSTRUCTION TO REPAVE AOOLE STREET FROM LAGOON DRIVE TO NIMITZ HIGHWAY AND LAGOON DRIVE FROM AOOLE STREET TO IOLANA STREET. DESIGN		500	
		CONSTRUCTION			6,579
		TOTAL FUNDING	TRN	500E	6,579E
9.	A41S	HONOLULU INTERNATIONAL AIRPORT, PROGRAM MANAGEMENT, OAHU DESIGN FOR PROGRAM MANAGEMENT OF THE AIRPORT MODERNIZATION PROGRAM. DESIGN		15,000	
		TOTAL FUNDING	TRN	15,000E	E
10.	A41R	HONOLULU INTERNATIONAL AIRPORT, DIAMOND HEAD CONCOURSE IMPROVEMENTS, OAHU CONSTRUCTION FOR ASBESTOS ABATEMENT, CEILING AND AIR CONDITIONING IMPROVEMENTS, AND OTHER RELATED IMPROVEMENTS. CONSTRUCTION		6,000	
		TOTAL FUNDING	TRN	6,000E	E
11.	A35E	HONOLULU INTERNATIONAL AIRPORT, ROADWAY/TERMINAL SIGNAGE IMPROVEMENTS, OAHU CONSTRUCTION FOR ROADWAY AND TERMINAL SIGNAGE IMPROVEMENTS AND OTHER RELATED IMPROVEMENTS. CONSTRUCTION		15,000	
		TOTAL FUNDING	TRN	15,000E	E
12.	A08B	HONOLULU INTERNATIONAL AIRPORT, CONCESSION IMPROVEMENTS, OAHU CONSTRUCTION TO EXPAND, RENOVATE AND IMPROVE THE EXISTING CONCESSION SPACE IN THE OVERSEAS TERMINAL CENTRAL AREA, DIAMOND HEAD CONCOURSE AND EWA CONCOURSE. CONSTRUCTION		6,000	
		TOTAL FUNDING	TRN	6,000E	E

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O	YEAR O
				2015-2016 F	2016-2017 F
13.	A08E	HONOLULU INTERNATIONAL AIRPORT, RESTROOM RENOVATION, OAHU			
		DESIGN AND CONSTRUCTION FOR RENOVATION OF AIRPORT RESTROOMS AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		5,000	
		CONSTRUCTION			18,876
		TOTAL FUNDING	TRN	B	12,500 B
			TRN	5,000 E	6,375 E
			TRN	N	1 N
15.	A08F	HONOLULU INTERNATIONAL AIRPORT, USDA FACILITY, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW UNITED STATES DEPARTMENT OF AGRICULTURE (USDA) INSPECTION FACILITY AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		200	
		DESIGN		350	
		CONSTRUCTION			5,450
		TOTAL FUNDING	TRN	550 N	5,450 N
16.	A08C	HONOLULU INTERNATIONAL AIRPORT, OVERSEAS TERMINAL ASBESTOS ABATEMENT, OAHU			
		DESIGN AND CONSTRUCTION FOR THE REMOVAL OF ASBESTOS CONTAINING MATERIALS AND OTHER RELATED IMPROVEMENTS.			
		DESIGN		2,500	
		CONSTRUCTION			17,000
		TOTAL FUNDING	TRN	2,500 E	17,000 E
17.	A41Z	HONOLULU INTERNATIONAL AIRPORT, BAGGAGE HANDLING SYSTEM IMPROVEMENTS, OAHU			
		DESIGN AND CONSTRUCTION OF IMPROVEMENTS FOR THE BAGGAGE HANDLING SYSTEM AND OTHER RELATED IMPROVEMENTS.			
		DESIGN		5,000	
		CONSTRUCTION			34,000
		TOTAL FUNDING	TRN	5,000 E	34,000 E

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
17.01.	A11E	HONOLULU INTERNATIONAL AIRPORT, ELLIOTT STREET SUPPORT FACILITIES, OAHU			
		DESIGN AND CONSTRUCTION FOR SUPPORT FACILITIES NEAR ELLIOTT STREET INCLUDING MAINTENANCE FACILITIES, CARGO FACILITIES, TAXILANES G AND L WIDENING AND REALIGNMENT, AND OTHER RELATED IMPROVEMENTS FOR THE AIRPORT MODERNIZATION PROGRAM.			
		DESIGN			2,000
		CONSTRUCTION			50,700
		TOTAL FUNDING	TRN	E	52,700E
17.02.	A41Q	HONOLULU INTERNATIONAL AIRPORT, NEW MAUKA CONCOURSE IMPROVEMENTS, OAHU			
		DESIGN AND CONSTRUCTION FOR NEW COMMUTER FACILITIES, NEW MAUKA CONCOURSE, AIRCRAFT APRON, TAXIWAYS AND BLAST FENCE NEAR THE INTERISLAND TERMINAL, AND OTHER RELATED IMPROVEMENTS FOR THE AIRPORT MODERNIZATION PROGRAM.			
		DESIGN			2,000
		CONSTRUCTION			37,950
		TOTAL FUNDING	TRN	E	39,950E
17.03.	A30B	HONOLULU INTERNATIONAL AIRPORT, 400 HERTZ GROUND POWER UNIT UPGRADE, OAHU			
		DESIGN FOR IMPROVEMENTS TO THE TERMINAL ELECTRICAL SYSTEM TO PROVIDE INCREASED 400 HERTZ POWER FOR AIRCRAFT AT THE GATES.			
		DESIGN			850
		TOTAL FUNDING	TRN	E	850E
17.04.	A41A	HONOLULU INTERNATIONAL AIRPORT, AUTOMATED PASSPORT CONTROL KIOSK INSTALLATION, OAHU			
		CONSTRUCTION FOR THE INSTALLATION OF AUTOMATED PASSPORT CONTROL KIOSKS AND OTHER RELATED IMPROVEMENTS.			
		CONSTRUCTION			425
		TOTAL FUNDING	TRN	E	425E
17.05.	A41F	HONOLULU INTERNATIONAL AIRPORT, TICKET LOBBY IMPROVEMENTS, OAHU			
		DESIGN OF IMPROVEMENTS TO THE OVERSEAS TERMINAL TICKET LOBBY.			
		DESIGN			17,000
		TOTAL FUNDING	TRN	E	17,000E

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
17.06.	A36A	HONOLULU INTERNATIONAL AIRPORT, HEAVY EQUIPMENT GARAGE, OAHU			
		CONSTRUCTION OF A HEAVY EQUIPMENT GARAGE AT THE MAINTENANCE BASEYARD.			
		CONSTRUCTION			765
		TOTAL FUNDING	TRN	E	765E
17.07.	A37H	HONOLULU INTERNATIONAL AIRPORT, LOADING BRIDGE PRE-CONDITIONED AIR INSTALLATION, OAHU			
		DESIGN FOR THE INSTALLATION OF PRE-CONDITIONED AIR FOR LOADING BRIDGES.			
		DESIGN			638
		TOTAL FUNDING	TRN	E	638E
TRN104 - GENERAL AVIATION					
17.08.	A71E	KALAELOA AIRPORT, UTILITY SYSTEM IMPROVEMENTS, OAHU			
		DESIGN FOR UPGRADING THE UTILITY INFRASTRUCTURE SYSTEM TO INCLUDE WATER, ELECTRICAL AND TELEPHONE DISTRIBUTION, AND SEWER AND STORM WATER SYSTEMS TO MEET CURRENT CIVIL AIRPORT STANDARDS AND CITY AND COUNTY OF HONOLULU STANDARDS.			
		DESIGN			638
		TOTAL FUNDING	TRN	E	638E
TRN111 - HILO INTERNATIONAL AIRPORT					
18.	B05B	HILO INTERNATIONAL AIRPORT, AIRFIELD IMPROVEMENTS, HAWAII			
		CONSTRUCTION FOR AIRFIELD IMPROVEMENTS AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		3,500	
		TOTAL FUNDING	TRN	350E	E
			TRN	3,150N	N
19.	B10Z	HILO INTERNATIONAL AIRPORT, WEST RAMP DEMOLITION AND SITE IMPROVEMENTS, HAWAII			
		DESIGN AND CONSTRUCTION FOR THE DEMOLITION OF EXISTING STRUCTURES AT THE WEST RAMP AND CONSTRUCTION OF SITE IMPROVEMENTS.			
		DESIGN		300	
		CONSTRUCTION			3,052
		TOTAL FUNDING	TRN	300E	3,052E



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
19.01.	B101	HILO INTERNATIONAL AIRPORT, TERMINAL IMPROVEMENTS, HAWAII DESIGN FOR RENOVATION OF TERMINAL IMPROVEMENTS INCLUDING THE TICKET LOBBY, HOLDROOMS, AIRPORT RESTROOMS AND OTHER RELATED IMPROVEMENTS. DESIGN			255
		TOTAL FUNDING	TRN	E	255E
TRN114 - KONA INTERNATIONAL AIRPORT AT KEAHOLE					
20.	C03D	KONA INTERNATIONAL AIRPORT AT KEAHOLE, REGIONAL ARFF TRAINING FACILITY, HAWAII DESIGN AND CONSTRUCTION FOR A NEW ARFF REGIONAL TRAINING FACILITY TO INCLUDE ITEMS NECESSARY FOR CURRENT AVIATION AND EMERGENCY RESPONDER NEEDS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. DESIGN		5,000	
		CONSTRUCTION			50,600
		TOTAL FUNDING	TRN	5,000E	30,600E
			TRN	N	20,000N
21.		KONA INTERNATIONAL AIRPORT AT KEAHOLE, FEDERAL INSPECTION STATION, HAWAII PLANS, DESIGN AND CONSTRUCTION FOR A FEDERAL INSPECTION STATION AT KONA INTERNATIONAL AIRPORT AT KEAHOLE. PLANS		1	
		DESIGN		2,499	
		CONSTRUCTION			50,000
		TOTAL FUNDING	TRN	2,500C	C
			TRN	E	50,000E
21.01.	C10F	KONA INTERNATIONAL AIRPORT AT KEAHOLE, PERIMETER FENCE REPLACEMENT, HAWAII DESIGN FOR REPLACEMENT OF THE PERIMETER FENCE AND OTHER RELATED IMPROVEMENTS. DESIGN			255
		TOTAL FUNDING	TRN	E	255E
21.02.	C06A	KONA INTERNATIONAL AIRPORT AT KEAHOLE, GENERAL AVIATION SUBDIVISION, HAWAII CONSTRUCTION FOR IMPROVEMENTS FOR A GENERAL AVIATION SUBDIVISION AT THE SOUTH RAMP AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. CONSTRUCTION			18,075
		TOTAL FUNDING	TRN	B	12,825B
			TRN	E	5,249E
			TRN	N	1N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O	YEAR O
				2015-2016 F	2016-2017 F
<b>TRN131 - KAHULUI AIRPORT</b>					
22.	D08Q	KAHULUI AIRPORT, NEW SEWAGE LIFT/PUMP STATION, MAUI			
		CONSTRUCTION FOR THE REMOVAL OF THE EXISTING SEWAGE LIFT STATION AND REPLACEMENT WITH A NEW SEWAGE LIFT/PUMP STATION.			
		CONSTRUCTION		3,300	
		TOTAL FUNDING	TRN	3,300 E	E
23.	D04V	KAHULUI AIRPORT, RESTROOM RECONSTRUCTION, MAUI			
		DESIGN AND CONSTRUCTION FOR RENOVATION OF AIRPORT RESTROOMS.			
		DESIGN		900	
		CONSTRUCTION			5,610
		TOTAL FUNDING	TRN	900 E	5,610 E
24.	D04D	KAHULUI AIRPORT, TERMINAL IMPROVEMENTS, MAUI			
		DESIGN AND CONSTRUCTION OF HOLDROOM, SECURITY PASS AND ID OFFICE IMPROVEMENTS, AND A NEW CONFERENCE ROOM.			
		DESIGN		800	
		CONSTRUCTION			6,800
		TOTAL FUNDING	TRN	800 E	6,800 E
24.01.	D04W	KAHULUI AIRPORT, INBOUND BAGGAGE HANDLING SYSTEM IMPROVEMENTS, MAUI			
		DESIGN FOR INBOUND BAGGAGE HANDLING SYSTEM IMPROVEMENTS.			
		DESIGN			213
		TOTAL FUNDING	TRN	E	213 E
24.02.	D08R	KAHULUI AIRPORT, LEASE LOTS, MAUI			
		DESIGN FOR LEASE LOTS AND OTHER RELATED IMPROVEMENTS.			
		DESIGN			1,275
		TOTAL FUNDING	TRN	E	1,275 E
24.03.	D04T	KAHULUI AIRPORT, HOLDROOM AND GATE IMPROVEMENTS, MAUI			
		DESIGN FOR HOLDROOM AND GATE IMPROVEMENTS AT THE AIRPORT.			
		DESIGN			6,800
		TOTAL FUNDING	TRN	E	6,800 E

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
TRN133 - HANA AIRPORT					
25.	D20B	HANA AIRPORT, PART 139 IMPROVEMENTS, MAUI CONSTRUCTION FOR PART 139 COMPLIANCE IMPROVEMENTS FOR A NEW AIRCRAFT RESCUE AND FIREFIGHTING (ARFF) STATION AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		2,079	12,313
		TOTAL FUNDING	TRN	189 E	1,063 E
			TRN	1,890 N	11,250 N
26.	D20C	HANA AIRPORT, MAUI DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO MEET 14 CFR, PART 139 REQUIREMENTS.			
		DESIGN		1,000	
		CONSTRUCTION		18,000	
		TOTAL FUNDING	TRN	19,000 E	E
TRN141 - MOLOKAI AIRPORT					
27.	D55G	MOLOKAI AIRPORT, RUNWAY 17-35 IMPROVEMENTS, MOLOKAI DESIGN AND CONSTRUCTION FOR AIRFIELD IMPROVEMENTS INCLUDING PAVEMENT RECONSTRUCTION, DRAINAGE, STRIPING, LIGHTING, SIGNAGE AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		200	
		CONSTRUCTION			3,001
		TOTAL FUNDING	TRN	B	3,000 B
			TRN	200 E	E
			TRN	N	1 N
TRN151 - LANAI AIRPORT					
28.	D70I	LANAI AIRPORT, AIRPORT ROAD AND PARKING LOT IMPROVEMENTS, LANAI CONSTRUCTION FOR AIRPORT ROAD AND PARKING LOT IMPROVEMENTS AND OTHER RELATED IMPROVEMENTS.			
		CONSTRUCTION			1,275
		TOTAL FUNDING	TRN	E	1,275 E
28.01.	D70J	LANAI AIRPORT, RUNWAY 3-21 EXTENSION, LANAI CONSTRUCTION FOR AN EXTENSION OF RUNWAY 3-21 AND OTHER RELATED IMPROVEMENTS.			
		CONSTRUCTION			4,000
		TOTAL FUNDING	TRN	B	5 B
			TRN	R	3,995 R

## CAPITAL IMPROVEMENT PROJECTS

				APPROPRIATIONS (IN 000'S)	
CAPITAL PROJECT		EXPENDING AGENCY	FISCAL M		FISCAL M
ITEM NO.	PROJECT NO.		YEAR O	YEAR O	
	TITLE		2015-2016 F	2016-2017 F	
TRN161 - LIHUE AIRPORT					
29.	E10B	LIHUE AIRPORT, AIRFIELD IMPROVEMENTS, KAUAI			
		CONSTRUCTION FOR AIRFIELD IMPROVEMENTS AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION	20,000		
		TOTAL FUNDING	TRN	5,465 E	E
			TRN	14,535 N	N
29.01.	E03O	LIHUE AIRPORT, AHUKINI LANDFILL RESTORATION, KAUAI			
		DESIGN FOR THE RESTORATION OF THE AHUKINI LANDFILL AT LIHUE AIRPORT.			
		DESIGN			425
		TOTAL FUNDING	TRN	E	425 E
29.02.	E03T	LIHUE AIRPORT, TERMINAL SIDING AND SKYLIGHT IMPROVEMENTS, KAUAI			
		DESIGN FOR TERMINAL SIDING AND SKYLIGHT IMPROVEMENTS AND OTHER RELATED IMPROVEMENTS.			
		DESIGN			298
		TOTAL FUNDING	TRN	E	298 E
29.03.	E03U	LIHUE AIRPORT, TICKET LOBBY AND HOLDROOM IMPROVEMENTS, KAUAI			
		DESIGN AND CONSTRUCTION FOR TICKET LOBBY AND HOLDROOM IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN			400
		CONSTRUCTION			8,420
		TOTAL FUNDING	TRN	B	6,600 B
			TRN	E	2,219 E
			TRN	N	1 N
29.04.	E10C	LIHUE AIRPORT, MASTER PLAN UPDATE, KAUAI			
		PLANS TO UPDATE THE MASTER PLAN FOR LIHUE AIRPORT.			
		PLANS			1,500
		TOTAL FUNDING	TRN	B	1,500 B

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F

## TRN195 - AIRPORTS ADMINISTRATION

30. F08F AIRPORTS DIVISION CAPITAL IMPROVEMENT PROGRAM  
PROJECT STAFF COSTS, STATEWIDE

PLANS, DESIGN AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGE BENEFITS FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION'S AIRPORTS DIVISION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENT PROGRAM RELATED POSITIONS (OTHER FUNDS FROM PASSENGER FACILITY CHARGES).

PLANS		275	275
DESIGN		1,325	1,500
CONSTRUCTION		1,825	2,150
TOTAL FUNDING	TRN	3,300 B	3,800 B
	TRN	125 X	125 X

## 31. F05I AIRFIELD IMPROVEMENTS, STATEWIDE

DESIGN AND CONSTRUCTION FOR AIRFIELD IMPROVEMENTS AT STATEWIDE AIRPORTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

DESIGN		1,000	1,000
CONSTRUCTION		11,000	11,000
TOTAL FUNDING	TRN	4,500 B	4,500 B
	TRN	7,500 N	7,500 N

## 32. F08G MISCELLANEOUS AIRPORT PROJECTS, STATEWIDE

DESIGN AND CONSTRUCTION OF IMPROVEMENTS AT VARIOUS STATE AIRPORTS. IMPROVEMENTS FOR SAFETY AND CERTIFICATION REQUIREMENTS, OPERATIONAL EFFICIENCY AND PROJECTS REQUIRED FOR AIRPORT RELATED DEVELOPMENT.

DESIGN		1,000	1,000
CONSTRUCTION		2,500	2,500
TOTAL FUNDING	TRN	3,500 B	3,500 B

## 33. F04J AIRPORT PLANNING STUDY, STATEWIDE

PLANS FOR AIRPORT IMPROVEMENTS, ECONOMIC STUDIES, RESEARCH, NOISE MONITORING STUDIES, NOISE COMPATIBILITY STUDIES AND ADVANCE PLANNING OF FEDERAL AID AND NON-FEDERAL AID PROJECTS.

PLANS		1,000	1,000
TOTAL FUNDING	TRN	1,000 B	1,000 B

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
34.	F08Y	PROGRAM MANAGEMENT, STATEWIDE			
		DESIGN FOR THE PROGRAM			
		MANAGEMENT OF THE MODERNIZATION			
		PROGRAM AT AIRPORTS STATEWIDE.			
		DESIGN		1,500	850
		TOTAL FUNDING TRN		1,500E	850E
35.	F08O	CONSTRUCTION MANAGEMENT SUPPORT, STATEWIDE			
		CONSTRUCTION FOR CONSTRUCTION			
		MANAGEMENT SUPPORT AT AIRPORT			
		FACILITIES, STATEWIDE.			
		CONSTRUCTION		1,000	1,000
		TOTAL FUNDING TRN		1,000B	1,000B
36.	F05L	RENTAL CAR FACILITY IMPROVEMENTS, STATEWIDE			
		LAND ACQUISITION AND CONSTRUCTION			
		TO PROVIDE CONSOLIDATED CAR			
		RENTAL FACILITIES FOR THE RENTAL			
		CAR AGENCIES AND OTHER RELATED			
		IMPROVEMENTS.			
		LAND		12,000	
		CONSTRUCTION		203,950	
		TOTAL FUNDING TRN		86,811B	B
		TRN		129,139E	E
37.	F04P	AIRPORT LAYOUT PLAN, STATEWIDE			
		PLANS TO UPDATE THE AIRPORT LAYOUT			
		PLANS FOR ALL AIRPORTS, STATEWIDE.			
		THIS PROJECT IS DEEMED NECESSARY TO			
		QUALIFY FOR FEDERAL AID FINANCING			
		AND/OR REIMBURSEMENT.			
		PLANS		2,000	1
		TOTAL FUNDING TRN		2,000B	B
		TRN		N	1N
38.	P16014	FEASIBILITY STUDY FOR SMALL COMMERCIAL AIRPORT, HAWAII			
		PLANS FOR FEASIBILITY STUDY FOR COST			
		OF CONSTRUCTING SMALL COMMERCIAL			
		AIRPORT IN SOUTH PUNA.			
		PLANS		50	
		TOTAL FUNDING TRN		50E	E
38.01.	F05Q	FIBER OPTIC INSTALLATION, STATEWIDE			
		DESIGN FOR THE INSTALLATION OF			
		FIBER OPTIC CABLE FOR INTERNET			
		CONNECTIVITY AT AIRPORTS STATEWIDE.			
		DESIGN			298
		TOTAL FUNDING TRN		E	298E
38.02.		PROJECT ADJUSTMENT FUND, STATEWIDE			
		PLANS FOR THE ESTABLISHMENT OF			
		A CONTINGENCY FUND FOR PROJECT			
		ADJUSTMENT PURPOSES SUBJECT TO THE			
		PROVISIONS OF THE APPROPRIATIONS ACT.			
		PLANS			17,212
		TOTAL FUNDING TRN		E	17,212E

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
TRN301 - HONOLULU HARBOR					
39.	J42	MODERNIZATION PROGRAM-KAPALAMA MILITARY RESERVATION IMPROVEMENTS, HONOLULU HARBOR, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR THE DEVELOPMENT OF A NEW CONTAINER TERMINAL FACILITY AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		500	
		DESIGN		1,500	8,001
		CONSTRUCTION		248,000	392,001
		TOTAL FUNDING	TRN	250,000 E	350,000 E
			TRN	R	2 R
			TRN	P	50,000 P
40.	P16015	HARDENING FOR DECKING BAYS AND PARKING AREAS AT PIERS 51B THROUGH 52, HONOLULU HARBOR, OAHU			
		PLANS, DESIGN AND CONSTRUCTION TO PERMANENTLY HARDEN DECKING BAYS AND PARKING AREAS FOR LOADED CONTAINERS IN THE CONTAINER TERMINAL AT PIERS 51B THROUGH 52 IN HONOLULU HARBOR. THE PROPOSED PROJECT WILL REQUIRE USE OF CONCRETE ON THE ENTIRE AREA, AND WILL ALSO INCLUDE HANDLING, INSTALLING AND MOVING RELATED UTILITIES, I.E. WATER LINES, ELECTRICAL BOXES AND CONDUITS AND RESTRIPIING OF THE AFFECTED AREA.			
		PLANS		1	
		DESIGN		2	
		CONSTRUCTION		9,997	
		TOTAL FUNDING	TRN	10,000 E	E
40.01.	J45	PIER 1 AND 2 IMPROVEMENTS, HONOLULU HARBOR, OAHU			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO CONTAINER-CARGO AND CRUISE SHIP OPERATIONAL AREAS.			
		DESIGN			480
		CONSTRUCTION			8,000
		TOTAL FUNDING	TRN	E	8,480 E
40.02.	J47	IMPROVEMENTS TO ALOHA TOWER AND ALOHA TOWER MARKETPLACE COMPLEX, HONOLULU HARBOR, OAHU			
		DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO ADDRESS HEALTH, SAFETY, ENERGY/OPERATIONAL EFFICIENCIES, AND ESSENTIAL INFRASTRUCTURE ISSUES THAT IMPACT THE HISTORIC ALOHA TOWER AND THE ALOHA TOWER MARKETPLACE COMPLEX.			

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		DESIGN			1,001
		CONSTRUCTION			17,001
		TOTAL FUNDING	TRN	E	18,000E
			TRN	R	2R
40.03.	J48	PIERS 16-19 IMPROVEMENTS, HONOLULU HARBOR, OAHU			
		DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO ADDRESS HEALTH, SAFETY, ENERGY/OPERATIONAL DEFICIENCIES, STRUCTURAL DEFICIENCIES, AND ESSENTIAL INFRASTRUCTURE ISSUES THAT IMPACT THE PIERS AND FACILITIES AT PIERS 16 THROUGH 19.			
		DESIGN			181
		CONSTRUCTION			3,001
		TOTAL FUNDING	TRN	B	3,180B
			TRN	R	2R
40.04.	J46	IMPROVEMENTS TO HARBORS DIVISION BUILDINGS AND ASSOCIATED FACILITIES, HONOLULU HARBOR, OAHU			
		DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO THE HARBORS DIVISION BUILDINGS AND ASSOCIATED FACILITIES IN HONOLULU HARBOR, OAHU.			
		DESIGN			1,501
		CONSTRUCTION			25,001
		TOTAL FUNDING	TRN	E	26,500E
			TRN	R	2R
<b>TRN303 - KALAELOA BARBERS POINT HARBOR</b>					
41.	J44	FUEL PIER FACILITY IMPROVEMENTS, KALAELOA BARBERS POINT HARBOR, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW FUEL PIER FACILITY AND OTHER RELATED IMPROVEMENTS.			
		PLANS		1,000	
		DESIGN		3,000	1
		CONSTRUCTION			50,001
		TOTAL FUNDING	TRN	4,000E	50,000E
			TRN	R	2R
41.01.	J49	INFRASTRUCTURE IMPROVEMENTS TO KALAELOA BARBERS POINT HARBOR, OAHU			
		DESIGN AND CONSTRUCTION OF ESSENTIAL INFRASTRUCTURE FOR MORE EFFICIENT AND SAFER USE OF ALL EXISTING AND PLANNED FACILITIES AT KALAELOA BARBERS POINT HARBOR, OAHU.			
		DESIGN			3,251
		CONSTRUCTION			54,001
		TOTAL FUNDING	TRN	E	57,250E
			TRN	R	2R



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F

## TRN311 - HILO HARBOR

- 42.01. L17 DEMOLITION OF PIER 2 SHED AND WATER TOWER AND  
RELATED IMPROVEMENTS, HILO HARBOR, HAWAII

DESIGN AND CONSTRUCTION OF THE  
DEMOLITION OF THE PIER 2 SHED  
AND WATER TOWER, AND RELATED  
IMPROVEMENTS INCLUDING, BUT  
NOT LIMITED TO, CONTINUE WATER  
DISTRIBUTION FOR DOMESTIC/FIRE  
SUPPRESSION AND PAVING FOR NEWLY  
CREATED CARGO OPERATIONAL AREA.

DESIGN		450
CONSTRUCTION		7,500
TOTAL FUNDING	TRN	7,950B

B

## TRN313 - KAWAIHAE HARBOR

- 42.02. L18 IMPROVEMENTS TO ACCESSWAYS INTO AND OUT OF KAWAIHAE  
HARBOR, HAWAII

DESIGN AND CONSTRUCTION OF  
IMPROVEMENTS TO ADDRESS SAFETY,  
OPERATIONAL INEFFICIENCIES, AND  
ESSENTIAL INFRASTRUCTURE ISSUES  
THAT IMPACT TRAFFIC CIRCULATION INTO  
AND OUT OF KAWAIHAE HARBOR, HAWAII.

DESIGN		240
CONSTRUCTION		4,000
TOTAL FUNDING	TRN	4,240B

B

## TRN331 - KAHULUI HARBOR

43. M15 MODERNIZATION PROGRAM - KAHULUI HARBOR LAND  
ACQUISITION AND IMPROVEMENTS, MAUI

LAND ACQUISITION AND DESIGN FOR  
IMPROVEMENTS OF THE ACQUIRED  
LAND INCLUDING DEMOLITION OF  
EXISTING STRUCTURES, PAVING, UTILITIES,  
LANDSCAPING, FENCING AND OTHER  
RELATED SITEWORK IMPROVEMENTS.

LAND		15,000
DESIGN		2,000
TOTAL FUNDING	TRN	17,000E

E

44. M22 KAHULUI HARBOR IMPROVEMENTS, MAUI

PLANS, DESIGN AND CONSTRUCTION  
OF CAPITAL IMPROVEMENTS THAT  
WILL PROVIDE FOR SAFER AND MORE  
EFFICIENT USE OF OPERATIONAL AREAS  
AT KAHULUI HARBOR, MAUI.

PLANS		525	525
DESIGN		1,575	1,575
CONSTRUCTION		8,400	8,400
TOTAL FUNDING	TRN	10,500E	10,500E

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F

## TRN361 - NAWILIWILI HARBOR

44.01. K12 IMPROVEMENTS AT PIER 2 AND 3 AREAS, NAWILIWILI HARBOR, KAUAI

DESIGN AND CONSTRUCTION TO ADDRESS STORM WATER RUN-OFF, EROSION, SUBSIDENCE, AND PASSENGER SAFETY ISSUES DUE TO UNPAVED OR UNEVEN TERRAIN, INEFFECTIVE DRAINAGE, AND/OR SUBSURFACE IRREGULARITIES.

DESIGN		210
CONSTRUCTION		3,500
TOTAL FUNDING	TRN	3,710E

E

## TRN395 - HARBORS ADMINISTRATION

45. I21 MODERNIZATION PROGRAM - HARBORS DIVISION CAPITAL IMPROVEMENT PROGRAM STAFF COSTS, STATEWIDE

PLANS FOR COSTS RELATED TO WAGES AND FRINGE BENEFITS FOR PERMANENT HARBOR MODERNIZATION PLAN PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF MODERNIZATION PROGRAM PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION'S HARBORS DIVISION. PROJECTS MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENT PROGRAM RELATED POSITIONS.

PLANS		1,735	1,735
TOTAL FUNDING	TRN	1,735E	1,735E

46. I24 COMMERCIAL HARBOR FACILITY IMPROVEMENTS, STATEWIDE

PLANS, DESIGN AND CONSTRUCTION OF SHORE-SIDE AND WATER IMPROVEMENTS FOR COMMERCIAL HARBOR FACILITIES, STATEWIDE.

PLANS		425	425
DESIGN		850	850
CONSTRUCTION		7,225	7,225
TOTAL FUNDING	TRN	8,500E	8,500E

47. I15 SECURITY IMPROVEMENTS AT COMMERCIAL HARBORS, STATEWIDE

PLANS, DESIGN AND CONSTRUCTION FOR SECURITY SYSTEM IMPROVEMENTS AT COMMERCIAL HARBOR FACILITIES, STATEWIDE.

PLANS		50	50
DESIGN		150	150
CONSTRUCTION		300	300
TOTAL FUNDING	TRN	500B	500B

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
48.	I01	HARBOR PLANNING, STATEWIDE			
		PLANS FOR CONTINUING HARBOR STUDIES, RESEARCH AND ADVANCE PLANNING OF HARBOR AND TERMINAL FACILITIES ON ALL ISLANDS.			
		PLANS		750	750
		TOTAL FUNDING	TRN	750 B	750 B
49.	I06	ARCHITECTURAL AND ENGINEERING SUPPORT, STATEWIDE			
		PLANS AND DESIGN FOR CONSULTANT SERVICES FOR DEVELOPMENT OF COMMERCIAL HARBOR FACILITIES, STATEWIDE.			
		PLANS		100	100
		DESIGN		300	300
		TOTAL FUNDING	TRN	400 B	400 B
50.	I13	CONSTRUCTION MANAGEMENT SUPPORT, STATEWIDE			
		CONSTRUCTION FOR CONSULTANT SERVICES FOR CONSTRUCTION PROJECTS AT HARBOR FACILITIES, STATEWIDE.			
		CONSTRUCTION		500	500
		TOTAL FUNDING	TRN	500 B	500 B
51.	I20	MODERNIZATION PROGRAM CONSTRUCTION MANAGEMENT SUPPORT, STATEWIDE			
		CONSTRUCTION FOR CONSULTANT SERVICES DURING CONSTRUCTION OF MODERNIZATION PROGRAM PROJECTS AT COMMERCIAL HARBOR FACILITIES, STATEWIDE.			
		CONSTRUCTION		5,000	5,000
		TOTAL FUNDING	TRN	5,000 E	5,000 E
52.	I07	ENVIRONMENTAL REMEDIATION OF COMMERCIAL HARBOR FACILITIES, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR ASSESSMENT, MITIGATION AND/OR REMEDIATION OF ENVIRONMENTAL CONDITIONS AT COMMERCIAL HARBOR FACILITIES, STATEWIDE.			
		PLANS		100	100
		DESIGN		200	200
		CONSTRUCTION		1,200	1,200
		TOTAL FUNDING	TRN	1,500 B	1,500 B
53.		RELOCATION OF "I HEART RADIO" AERIAL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR RELOCATION OF THE 447 FOOT "I HEART RADIO" AERIAL LOCATED NEAR THE KAPALAMA CANAL ON DILLINGHAM BLVD.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		4,998	
		TOTAL FUNDING	TRN	5,000 C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
53.01.	I25	IMPROVEMENTS TO CRUISE SHIP FACILITIES, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO CRUISE SHIP FACILITIES, STATEWIDE.			
		PLANS			150
		DESIGN			301
		CONSTRUCTION			5,001
		TOTAL FUNDING	TRN	B	5,450B
			TRN	R	2R
TRN501 - OAHU HIGHWAYS					
54.	S266	GUARDRAIL AND SHOULDER IMPROVEMENTS, VARIOUS LOCATIONS, OAHU			
		DESIGN AND CONSTRUCTION FOR INSTALLING AND/OR UPGRADING THE EXISTING GUARDRAILS, END TERMINALS, TRANSITIONS, BRIDGE RAILING, BRIDGE ENDPOSTS AND CRASH ATTENUATORS AND UPGRADING SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		500	
		CONSTRUCTION		10,500	3,000
		TOTAL FUNDING	TRN	2,200E	600E
			TRN	8,800N	2,400N
55.	S332	EROSION CONTROL PROGRAM FOR STATE HIGHWAYS AND FACILITIES, OAHU			
		LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR PERMANENT EROSION CONTROL MITIGATION MEASURES ON STATE HIGHWAYS AND FACILITIES ON OAHU.			
		LAND		100	
		DESIGN		200	200
		CONSTRUCTION			2,000
		TOTAL FUNDING	TRN	300E	2,200E
56.	S344	MISCELLANEOUS PERMANENT BEST MANAGEMENT PRACTICES, OAHU			
		LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR PERMANENT BEST MANAGEMENT PRACTICE IMPROVEMENTS TO EXISTING HIGHWAY FACILITIES INCLUDING INSTALLATION OF STRUCTURAL AND NATURAL BEST MANAGEMENT PRACTICES AT VARIOUS LOCATIONS ON OAHU.			
		LAND			100
		DESIGN			750
		CONSTRUCTION		750	
		TOTAL FUNDING	TRN	750E	850E

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
57.	S351	CULVERT ASSESSMENT AND REMEDIATION, OAHU			
		DESIGN AND CONSTRUCTION TO ASSESS CULVERTS AND REPAIR AND/OR REPLACE CULVERTS REQUIRING REMEDIATION.			
		DESIGN		1,000	1,000
		CONSTRUCTION		3,810	1,500
		TOTAL FUNDING TRN		4,810 E	2,500 E
58.	S270	TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAYS FACILITIES, OAHU			
		DESIGN FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATIONS INCLUDING ELIMINATING CONSTRICTIONS, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/OR DECELERATION LANES AND OTHER IMPROVEMENTS FOR MORE EFFICIENT TRAFFIC FLOW.			
		DESIGN			200
		TOTAL FUNDING TRN		E	200 E
59.	S353	COMMERCIAL DRIVER'S LICENSE (CDL) AND MOTORCYCLE LICENSE TESTING FACILITY, OAHU			
		CONSTRUCTION FOR COMMERCIAL DRIVER'S LICENSE (CDL) AND MOTORCYCLE LICENSE TESTING FACILITY.			
		CONSTRUCTION		400	900
		TOTAL FUNDING TRN		400 E	900 E
60.	S346	INTERSTATE ROUTE H-1, KAPALAMA CANAL BRIDGE REHABILITATION, OAHU			
		DESIGN AND CONSTRUCTION FOR REHABILITATION OF KAPALAMA CANAL BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		600	
		CONSTRUCTION		8,500	
		TOTAL FUNDING TRN		1,820 E	E
		TRN		7,280 N	N
61.	S313	INTERSTATE ROUTE H-1, ADDITION AND/OR MODIFICATION OF FREEWAY ACCESS MAKAKILO TO PALAILAI INTERCHANGE, OAHU			
		CONSTRUCTION TO IMPROVE AND/OR MODIFY THE MAKAKILO AND PALAILAI INTERCHANGES AND CONSTRUCT A NEW INTERCHANGE (KAPOLEI INTERCHANGE). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		7,000	
		TOTAL FUNDING TRN		1,400 E	E
		TRN		5,600 N	N

## CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
61.01.	S350	INTERSTATE ROUTE H-1, AIRPORT VIADUCT IMPROVEMENTS, VICINITY OF VALKENBURGH STREET TO MIDDLE STREET, OAHU			
		CONSTRUCTION FOR IMPROVEMENTS TO THE AIRPORT VIADUCT, INCLUDING DECK REPAIRS AND SEALING, AND GUARDRAIL AND PLANTER BOX REPAIRS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			20,000
		TOTAL FUNDING	TRN	E	4,000 E
			TRN	N	16,000 N
61.02.	S343	INTERSTATE ROUTE H-1 CORRIDOR IMPROVEMENTS, OAHU			
		PLANS TO IMPLEMENT SHORT TERM PRIORITY PROJECTS IDENTIFIED IN THE H-1 CORRIDOR STUDY THAT WILL MEET CURRENT AND FUTURE CAPACITY REQUIREMENTS OF THE H-1 CORRIDOR. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS			2,000
		TOTAL FUNDING	TRN	E	400 E
			TRN	N	1,600 N
62.	S354	KAMEHAMEHA HIGHWAY, KIPAPA STREAM (ROOSEVELT) BRIDGE REHABILITATION AND/OR REPLACEMENT, OAHU			
		LAND ACQUISITION AND CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF KIPAPA STREAM (ROOSEVELT) BRIDGE ON KAMEHAMEHA HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		250	
		CONSTRUCTION			17,000
		TOTAL FUNDING	TRN	50 E	3,400 E
			TRN	200 N	13,600 N
63.	S357	KAMEHAMEHA HIGHWAY, HOOLAPA (NANAHU) BRIDGE REHABILITATION AND/OR REPLACEMENT, OAHU			
		LAND ACQUISITION AND CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF HOOLAPA (NANAHU) BRIDGE ALONG KAMEHAMEHA HIGHWAY (ROUTE 83). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		250	
		CONSTRUCTION		5,000	2,000
		TOTAL FUNDING	TRN	1,050 E	400 E
			TRN	4,200 N	1,600 N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
64.	S297	KAMEHAMEHA HIGHWAY, KAWELA STREAM BRIDGE REPLACEMENT, OAHU			
		CONSTRUCTION FOR REPLACEMENT OF THE EXISTING BRIDGE ON KAMEHAMEHA HIGHWAY AT KAWELA STREAM WITH A LARGER BRIDGE INCLUDING IMPROVEMENTS TO THE ROADWAY APPROACHES, SEISMIC UPGRADES, TEMPORARY DETOUR ROAD AND UTILITY RELOCATIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		2,500	
		TOTAL FUNDING	TRN	500 E	E
			TRN	2,000 N	N
65.	S306	KAMEHAMEHA HIGHWAY, SOUTH KAHANA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, OAHU			
		CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF SOUTH KAHANA STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			1,000
		TOTAL FUNDING	TRN	E	200 E
			TRN	N	800 N
66.	S328	KAMEHAMEHA HIGHWAY, REHABILITATION AND/OR REPLACEMENT OF MAKAUUA STREAM BRIDGE, OAHU			
		CONSTRUCTION FOR THE REHABILITATION AND/OR REPLACEMENT OF MAKAUUA STREAM BRIDGE TO INCLUDE BRIDGE RAILINGS, SHOULDERS AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			2,100
		TOTAL FUNDING	TRN	E	420 E
			TRN	N	1,680 N
66.01.	S314	KAMEHAMEHA HIGHWAY, UPPER POAMOHU STREAM BRIDGE REPLACEMENT, OAHU			
		DESIGN FOR REPLACEMENT OF A MULTI-GIRDER REINFORCED CONCRETE BRIDGE ON KAMEHAMEHA HIGHWAY IN THE VICINITY OF WAHIAWA TO INCLUDE BRIDGE RAILINGS, PEDESTRIAN WALKWAYS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN			2,600
		TOTAL FUNDING	TRN	E	520 E
			TRN	N	2,080 N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
67.	SP0303	KAHEKILI HIGHWAY, OAHU			
		LAND ACQUISITION AND DESIGN FOR HIGHWAY WIDENING AND OTHER IMPROVEMENTS TO PROVIDE CORRIDOR CAPACITY AND OPERATIONAL IMPROVEMENTS FROM LIKELIKE HIGHWAY TO KAMEHAMEHA HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND DESIGN		4,250	1,000
		TOTAL FUNDING	TRN	850 E	200 E
			TRN	3,400 N	800 N
68.	S358	KEAAHALA ROAD WIDENING, KAHEKILI HIGHWAY TO POOKELA STREET, OAHU			
		LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR THE WIDENING OF KEAAHALA ROAD FROM KAHEKILI HIGHWAY TO POOKELA STREET.			
		LAND DESIGN		500	
		CONSTRUCTION		650	
		TOTAL FUNDING	TRN	1,150 E	3,000 E
69.	S231	KALANIANAOLE HIGHWAY IMPROVEMENTS, VICINITY OF OLOMANA GOLF COURSE TO VICINITY OF MAKAPUU, OAHU			
		DESIGN OF TURNING LANES, SIDEWALKS, CURB RAMPS, BIKE PATHS OR BIKE ROUTES, UPGRADING TRAFFIC SIGNALS AND HIGHWAY LIGHTING, UTILITY RELOCATION, DRAINAGE IMPROVEMENTS, PAVING, AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		1,500	
		TOTAL FUNDING	TRN	300 E	E
			TRN	1,200 N	N
70.	SP0603	FARRINGTON HIGHWAY IMPROVEMENTS BETWEEN HONOKAI HALE AND HAKIMO ROAD, OAHU			
		CONSTRUCTION FOR IMPROVEMENTS ALONG FARRINGTON HIGHWAY FOR ALTERNATIVE CONGESTION RELIEF AND/OR SAFETY IMPROVEMENTS ALONG FARRINGTON HIGHWAY BETWEEN HONOKAI HALE AND HAKIMO ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			500
		TOTAL FUNDING	TRN	E	100 E
			TRN	N	400 N



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
70.01.	S348	FARRINGTON HIGHWAY, ULEHAWA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, OAHU			
		LAND ACQUISITION FOR THE REHABILITATION AND/OR REPLACEMENT OF ULEHAWA STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND			50
		TOTAL FUNDING	TRN	E	10E
			TRN	N	40N
71.	S257	CASTLE HILLS ACCESS ROAD IMPROVEMENTS, OAHU			
		LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR THE WIDENING OF CASTLE HILLS ACCESS ROAD (POOKELA STREET), FROM KEAAHALA ROAD TO KUPOHU STREET.			
		LAND		500	
		DESIGN		600	
		CONSTRUCTION			3,000
		TOTAL FUNDING	TRN	1,100E	3,000E
72.	S331	INTERSTATE ROUTE H-1 WIDENING, EASTBOUND, VICINITY OF WAIKELE TO VICINITY OF HALAWA, OAHU			
		DESIGN FOR THE WIDENING OF H-1 EASTBOUND FREEWAY AND VIADUCT STRUCTURE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		4,500	
		TOTAL FUNDING	TRN	900E	E
			TRN	3,600N	N
73.	S356	SAND ISLAND ACCESS ROAD, TRUCK WEIGH STATION, OAHU			
		LAND ACQUISITION AND CONSTRUCTION OF A TRUCK WEIGH STATION ON SAND ISLAND ACCESS ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		3,000	
		CONSTRUCTION			550
		TOTAL FUNDING	TRN	600E	110E
			TRN	2,400N	440N
74.	SP1501	H-1 FREEWAY NEAR ULUNE STREET, OAHU			
		DESIGN AND CONSTRUCTION FOR A NOISE BARRIER ALONG THE H-1 FREEWAY NEAR ULUNE STREET.			
		DESIGN		1	
		CONSTRUCTION		834	
		TOTAL FUNDING	TRN	835C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
75.	SP1502	KALIHI STREET CROSSWALK, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE INSTALLATION OF A SIGNALIZED CROSSWALK ON KALIHI STREET BETWEEN ASHFORD STREET AND KAHANU STREET.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		747	
		EQUIPMENT		1	
		TOTAL FUNDING	TRN	750C	C
75.01.	S359	INTERSTATE ROUTE H-3, PORTAL BUILDINGS IMPROVEMENTS, OAHU			
		DESIGN FOR THE REMOVAL OF EXISTING ROOF, AND INSTALLATION OF NEW ROOFING FOR THE H-3 PORTAL BUILDINGS AND OTHER INCIDENTAL WORK.			
		DESIGN			335
		TOTAL FUNDING	TRN	E	335E
75.02.		KAILUA RD. AND S. KALAHEO AVE., OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR ROUNDABOUT, CONFLUENCE OF KAILUA ROAD AND S. KALAHEO AVENUE, OAHU.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			478
		TOTAL FUNDING	TRN	C	480C
75.03.		VINEYARD CROSSWALK, OAHU			
		CONSTRUCTION OF A SIGNALIZED CROSSWALK ON VINEYARD BOULEVARD AT RIVER STREET.			
		CONSTRUCTION			523
		TOTAL FUNDING	TRN	C	523C
<b>TRN511 - HAWAII HIGHWAYS</b>					
76.	T153	MAMALAHOA HIGHWAY, NINOLE BRIDGE REHABILITATION AND/OR REPLACEMENT, HAWAII			
		CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF NINOLE BRIDGE ALONG MAMALAHOA HIGHWAY (ROUTE 11). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			8,000
		TOTAL FUNDING	TRN	E	1,600E
			TRN	N	6,400N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
76.01.	T152	MAMALAHOA HIGHWAY, HILEA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, HAWAII			
		LAND ACQUISITION FOR REHABILITATION AND/OR REPLACEMENT OF HILEA STREAM BRIDGE ALONG MAMALAHOA HIGHWAY (ROUTE 11). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND			101
		TOTAL FUNDING	TRN	E	100E
			TRN	N	1N
77.	T149	KOHALA MOUNTAIN ROAD DRAINAGE IMPROVEMENTS, HAWAII			
		CONSTRUCTION FOR DRAINAGE IMPROVEMENTS IN THE VICINITY OF MILE POST 10.60.			
		CONSTRUCTION		3,600	
		TOTAL FUNDING	TRN	3,600E	E
78.	T108	DANIEL K. INOUE HIGHWAY EXTENSION, MAMALAHOA HIGHWAY TO QUEEN KAAHUMANU HIGHWAY, HAWAII			
		LAND ACQUISITION FOR A NEW ROADWAY AND/OR REALIGNMENT AND EXTENDING THE DANIEL K. INOUE HIGHWAY FROM THE HILO TERMINUS TO THE QUEEN KAAHUMANU HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		660	
		TOTAL FUNDING	TRN	110E	E
			TRN	550N	N
79.	T128	KEAAU-PAHOA ROAD IMPROVEMENTS, KEAAU TO PAHOA, HAWAII			
		LAND ACQUISITION AND DESIGN FOR WIDENING THE TWO LANE HIGHWAY TO FOUR LANES OR ALTERNATE ALIGNMENTS IN THIS CORRIDOR. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		100	2,500
		DESIGN		350	
		TOTAL FUNDING	TRN	90E	500E
			TRN	360N	2,000N
80.	TP1501	HIGHWAY 130, HAWAII			
		CONSTRUCTION FOR THE REPAIR AND MAINTENANCE OF FEEDER ROADS AND ALTERNATE ROUTES FOR HIGHWAY 130.			
		CONSTRUCTION		15,000	
		TOTAL FUNDING	TRN	15,000E	E

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
80.01.	T155	HAWAII BELT ROAD, WAILUKU BRIDGE REHABILITATION AND/OR REPLACEMENT, HAWAII			
		PLANS FOR REHABILITATION AND/OR REPLACEMENT OF WAILUKU BRIDGE ALONG HAWAII BELT ROAD (ROUTE 19). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS			1,201
		TOTAL FUNDING	TRN	E	1,200 E
			TRN	N	1 N
80.02.	T136	HAWAII BELT ROAD, DRAINAGE AND ROCKFALL IMPROVEMENTS, VICINITY OF HAKALAU BRIDGE, HAWAII			
		CONSTRUCTION FOR DRAINAGE AND ROCKFALL PROTECTION IMPROVEMENTS, INCLUDING INSTALLING A DRAINAGE SPILLWAY AND CULVERTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			1,000
		TOTAL FUNDING	TRN	E	200 E
			TRN	N	800 N
80.03.	T144	HAWAII BELT ROAD, REPLACEMENT OF PAHOEHOE STREAM BRIDGE, HAWAII			
		LAND ACQUISITION FOR THE REPLACEMENT OF A CONCRETE ARCH-DECK BRIDGE ON HAWAII BELT ROAD (ROUTE 19) ON THE BIG ISLAND IN THE VICINITY OF PAPAIKOU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND			1,000
		TOTAL FUNDING	TRN	E	200 E
			TRN	N	800 N
80.04.	T154	KAWAIHAE ROAD, SAFETY IMPROVEMENTS, RUNAWAY TRUCK RAMP, HAWAII			
		DESIGN FOR THE INSTALLATION OF A RUNAWAY TRUCK RAMP ALONG KAWAIHAE ROAD.			
		DESIGN			150
		TOTAL FUNDING	TRN	E	150 E
80.05.	T139	SADDLE ROAD MAINTENANCE BASEYARD, VICINITY OF MAUNA KEA STATE PARK, HAWAII			
		CONSTRUCTION FOR A ROAD MAINTENANCE FACILITY THAT INCLUDES MAINTENANCE AND OFFICE STRUCTURES, SITE IMPROVEMENTS, LAND ACQUISITION, STORAGE FACILITIES, AND OTHER RELATED IMPROVEMENTS.			
		CONSTRUCTION			7,600
		TOTAL FUNDING	TRN	E	7,600 E

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
TRN531 - MAUI HIGHWAYS					
81.	V075	HANA HIGHWAY ROCKFALL MITIGATION, HUELO TO HANA, MAUI			
		DESIGN AND CONSTRUCTION TO MITIGATE ROCKFALLS AND POTENTIAL LANDSLIDE AREAS ALONG THE SLOPES OF ROUTE 360 HANA HIGHWAY AT VARIOUS LOCATIONS.			
		DESIGN			200
		CONSTRUCTION		4,400	1,600
		TOTAL FUNDING	TRN	4,400 E	1,800 E
82.	V084	HANA HIGHWAY IMPROVEMENTS, HUELO TO HANA, MAUI			
		CONSTRUCTION FOR IMPROVING, UPGRADING AND/OR REPAIRING ROADWAYS, BRIDGES, WALLS, DRAINAGE STRUCTURES, GUARDRAILS, AND OTHER FACILITIES ON ROUTE 360 HANA HIGHWAY.			
		CONSTRUCTION		2,000	4,500
		TOTAL FUNDING	TRN	2,000 E	4,500 E
83.	V100	HANA HIGHWAY IMPROVEMENTS, VICINITY OF MILEPOST 28.1, MAUI			
		LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR ROADWAY WIDENING AND/OR REALIGNMENT AND OTHER IMPROVEMENTS ALONG HANA HIGHWAY IN THE VICINITY OF MILEPOST 28.1.			
		LAND		75	
		DESIGN		120	
		CONSTRUCTION			700
		TOTAL FUNDING	TRN	195 E	700 E
84.	V076	HANA HIGHWAY/KAAHUMANU AVENUE BEAUTIFICATION, DAIRY ROAD TO NANILOA OVERPASS, MAUI			
		CONSTRUCTION FOR THE BEAUTIFICATION OF THE MAIN CORRIDOR BETWEEN KAHULUI AND WAILUKU, TO INCLUDE LANDSCAPE AND IRRIGATION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		1,050	
		TOTAL FUNDING	TRN	210 E	E
			TRN	840 N	N
84.01.	V096	HANA HIGHWAY WIDENING, KAAHUMANU AVENUE TO HALEAKALA HIGHWAY, MAUI			
		CONSTRUCTION FOR THE WIDENING OF HANA HIGHWAY FROM KAAHUMANU AVENUE TO HALEAKALA HIGHWAY, FROM FOUR TO SIX LANES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			29,000
		TOTAL FUNDING	TRN	E	5,800 E
			TRN	N	23,200 N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
85.	V095	HALEAKALA HIGHWAY WIDENING AT MILE POST 0.8, MAUI			
		CONSTRUCTION FOR WIDENING THE HIGHWAY FROM ONE LANE TO TWO LANES, EXTENDING A BOX CULVERT AND CONSTRUCTING HEADWALLS AND WINGWALLS.			
		CONSTRUCTION		1,800	
		TOTAL FUNDING	TRN	1,800 E	E
86.	V074	PAIA BYPASS, MAUI			
		PLANS FOR ALTERNATIVE TRAFFIC IMPROVEMENTS IN THE VICINITY OF PAIA TOWN. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		300	
		TOTAL FUNDING	TRN	60 E	E
			TRN	240 N	N
87.	W013	KAMEHAMEHA V HIGHWAY, MAKAKUPAIA STREAM BRIDGE REPLACEMENT, MOLOKAI			
		CONSTRUCTION FOR THE REPLACEMENT OF MAKAKUPAIA STREAM BRIDGE TO INCLUDE BRIDGE RAILINGS AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			3,500
		TOTAL FUNDING	TRN	E	700 E
			TRN	N	2,800 N
88.	VP0301	HONOAPIILANI HIGHWAY WIDENING, LAHAINA TO MAALAEA, MAUI			
		PLANS, DESIGN AND CONSTRUCTION FOR THE REALIGNMENT/WIDENING OF HONOAPIILANI HIGHWAY FROM MAALAEA TO LAUNIUPOKO.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		8,498	
		TOTAL FUNDING	TRN	8,500 E	E
88.01.	V051	HONOAPIILANI HIGHWAY WIDENING AND/OR REALIGNMENT, HONOKOWAI TO LAUNIUPOKO, MAUI			
		CONSTRUCTION FOR A NEW ALIGNMENT OF HONOAPIILANI HIGHWAY FROM LAHAINALUNA ROAD TO THE VICINITY OF LAUNIUPOKO. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			5,000
		TOTAL FUNDING	TRN	E	1,000 E
			TRN	N	4,000 N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
89.	V107	KAHULUI BASEYARD IMPROVEMENTS, MAUI			
		DESIGN FOR KAHULUI BASEYARD IMPROVEMENTS.			
		DESIGN		650	
		TOTAL FUNDING	TRN	650E	E
89.01.	V048	GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS, MAUI			
		CONSTRUCTION FOR INSTALLING AND/OR UPGRADING EXISTING GUARDRAILS, END TERMINALS, TRANSITIONS, BRIDGE RAILINGS, BRIDGE ENDPOSTS AND CRASH ATTENUATORS, AND RECONSTRUCTING AND PAVING SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			1,000
		TOTAL FUNDING	TRN	E	200E
			TRN	N	800N
89.02.		HAIKU CROSSWALK-HANA HIGHWAY, PILIALOA STREET, MAUI			
		PLANS, DESIGN AND CONSTRUCTION OF CROSSWALK.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			248
		TOTAL FUNDING	TRN	E	250E
89.03.		PIILANI HIGHWAY TRAFFIC SIGNAL IMPROVEMENTS, MAUI			
		DESIGN AND CONSTRUCTION FOR TRAFFIC SIGNAL IMPROVEMENTS AT THE INTERSECTION OF PIILANI HIGHWAY AND KULANIHAKOI STREET IN KIHAI, MAUI.			
		DESIGN			500
		CONSTRUCTION			1,500
		TOTAL FUNDING	TRN	B	2,000B

## TRN561 - KAUAI HIGHWAYS

90.	X051	GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS, KAUAI			
		DESIGN AND CONSTRUCTION FOR INSTALLING AND/OR UPGRADING OF GUARDRAILS, END TERMINALS, TRANSITIONS, BRIDGE RAILINGS, BRIDGE ENDPOSTS AND CRASH ATTENUATORS; AND RECONSTRUCTING AND PAVING OF SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		300	
		CONSTRUCTION			4,000
		TOTAL FUNDING	TRN	60E	800E
			TRN	240N	3,200N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR	M O F	FISCAL YEAR	M O F
91.	X124	KUHIO HIGHWAY, KAPAIA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, KAUAI					
		CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF A MULTI-TEE BEAM REINFORCED CONCRETE GIRDER BRIDGE ON KUHIO HIGHWAY IN THE VICINITY OF KAPAIA TO INCLUDE PEDESTRIAN WALKWAYS, BRIDGE RAILINGS AND APPROACHES AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION			750		
		TOTAL FUNDING	TRN		150 E		E
			TRN		600 N		N
92.	X128	KUHIO HIGHWAY, REHABILITATION AND/OR REPLACEMENT OF WAIOLI, WAIPA, AND WAIKOKO BRIDGES, KAUAI					
		LAND ACQUISITION FOR THE REHABILITATION AND/OR REPLACEMENT OF WAIOLI STREAM BRIDGE, WAIPA STREAM BRIDGE, AND WAIKOKO STREAM BRIDGE ON KUHIO HIGHWAY, ROUTE 560. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND					850
		TOTAL FUNDING	TRN		E		170 E
			TRN		N		680 N
93.	X121	KUHIO HIGHWAY, REPLACEMENT OF WAINIHA BRIDGES, NUMBERS 1, 2 AND 3, KAUAI					
		CONSTRUCTION FOR REPLACEMENT OF WAINIHA BRIDGES NUMBERS 1, 2 AND 3. PROJECT WILL CONSTRUCT BRIDGE APPROACHES, DETOUR ROADS AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION					15,000
		TOTAL FUNDING	TRN		E		3,000 E
			TRN		N		12,000 N
94.	X133	KUHIO HIGHWAY IMPROVEMENTS IN THE VICINITY OF KAUAI COMMUNITY CORRECTIONAL CENTER AND WAILUA GOLF COURSE, KAUAI					
		LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS IN THE VICINITY OF THE KAUAI COMMUNITY CORRECTIONAL CENTER AND WAILUA GOLF COURSE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND			850		



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		DESIGN		250	
		CONSTRUCTION			9,500
		TOTAL FUNDING	TRN	1,100E	1,900E
			TRN	N	7,600N
95.	X134	KUHIO HIGHWAY, SLOPE STABILIZATION AT LUMAHAI HILLSIDE, KAUAI			
		CONSTRUCTION FOR SLOPE STABILIZATION AT LUMAHAI HILLSIDE.			
		CONSTRUCTION			150
		TOTAL FUNDING	TRN	E	150E
96.	X136	KAUMUALII HIGHWAY, BRIDGE NO. 7E REHABILITATION AND/OR REPLACEMENT, KAUAI			
		LAND ACQUISITION AND CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF BRIDGE NO. 7E ALONG KAUMUALII HIGHWAY (ROUTE 50). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND			150
		CONSTRUCTION			3,250
		TOTAL FUNDING	TRN	E	720E
			TRN	N	2,680N
97.	X007	KUHIO HIGHWAY IMPROVEMENTS, HANAMAULU TO KAPAA, KAUAI			
		LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR A NEW KAPAA BYPASS AND/OR WIDEN SECTIONS OF KUHIO HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		2,500	
		DESIGN		4,500	
		CONSTRUCTION		7,500	8,500
		TOTAL FUNDING	TRN	2,900E	1,700E
			TRN	11,600N	6,800N
97.01.	X130	KUHIO HIGHWAY, MAILIHUNA ROAD INTERSECTION IMPROVEMENTS AND KAPAA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, KAUAI			
		LAND ACQUISITION FOR THE CONSTRUCTION OF INTERSECTION SAFETY IMPROVEMENTS AND REHABILITATION AND/OR REPLACEMENT OF KAPAA STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND			121
		TOTAL FUNDING	TRN	E	120E
			TRN	N	1N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
98.	XP1501	KAUMUALII HIGHWAY IMPROVEMENTS, KAUAI			
		CONSTRUCTION OF HIGHWAY INTERSECTION IMPROVEMENTS AT KAUMUALII HIGHWAY AND MAHEA STREET FOR THE PROPOSED LIMA OLA AFFORDABLE HOUSING DEVELOPMENT PROJECT.			
		CONSTRUCTION		1,350	
		TOTAL FUNDING	TRN	1,350 E	E
TRN595 - HIGHWAYS ADMINISTRATION					
99.	X225	HIGHWAYS DIVISION CAPITAL IMPROVEMENTS PROGRAM PROJECT STAFF COSTS, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGE BENEFITS FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR DEPARTMENT OF TRANSPORTATION'S HIGHWAYS DIVISION. PROJECTS MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENT PROGRAM PROJECT RELATED POSITIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		1	1
		LAND		1	1
		DESIGN		1	1
		CONSTRUCTION		23,997	23,997
		TOTAL FUNDING	TRN	16,000 B	16,000 B
			TRN	8,000 N	8,000 N
100.	X098	IMPROVEMENTS TO INTERSECTIONS AND HIGHWAY FACILITIES, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR TRAFFIC SAFETY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		200	
		CONSTRUCTION			900
		TOTAL FUNDING	TRN	20 E	90 E
			TRN	180 N	810 N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
101.	X227	ROCKFALL PROTECTION/SLOPE STABILIZATION AT VARIOUS LOCATIONS, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR ROCKFALL/SLOPE PROTECTION AND SLOPE STABILIZATION MITIGATION MEASURES AT VARIOUS LOCATIONS STATEWIDE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		3,500	1,000
		CONSTRUCTION		2,250	
		TOTAL FUNDING	TRN	1,150 E	200 E
			TRN	4,600 N	800 N
102.	X097	MISCELLANEOUS DRAINAGE IMPROVEMENTS, STATEWIDE			
		CONSTRUCTION FOR DRAINAGE IMPROVEMENTS TO EXISTING HIGHWAY FACILITIES INCLUDING INSTALLATION OF DRAINAGE FACILITIES, CATCH BASINS, GRATED DROP INLETS, LINED SWALES, HEADWALLS AND CULVERTS AT VARIOUS LOCATIONS.			
		CONSTRUCTION			1,170
		TOTAL FUNDING	TRN	E	1,170 E
103.	X222	SEISMIC RETROFIT OF VARIOUS BRIDGES, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR SEISMIC RETROFIT OF VARIOUS BRIDGES STATEWIDE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		1,250	
		CONSTRUCTION			6,000
		TOTAL FUNDING	TRN	250 E	1,200 E
			TRN	1,000 N	4,800 N
104.	X241	MAJOR PAVEMENT IMPROVEMENTS, STATEWIDE			
		CONSTRUCTION FOR MAJOR PAVEMENT RECONSTRUCTION, RESURFACING, RESTORATION AND/OR REHABILITATION ALONG STATE ROUTES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		30,000	30,000
		TOTAL FUNDING	TRN	6,000 E	6,000 E
			TRN	24,000 N	24,000 N
105.	Y100	ALIIMOKU HALE, ELEVATOR MODERNIZATION, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR ELEVATOR RENOVATION AND/OR REPLACEMENT AND OTHER RELATED TASKS.			
		DESIGN		110	
		CONSTRUCTION			1,200
		TOTAL FUNDING	TRN	110 E	1,200 E

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2015-2016	FISCAL YEAR 2016-2017
106.	X243	ALIIAIMOKU BUILDING IMPROVEMENTS, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR VARIOUS IMPROVEMENTS FOR THE DEPARTMENT OF TRANSPORTATION'S MAIN OFFICE BUILDING.			
		DESIGN		200	
		CONSTRUCTION			1,400
		TOTAL FUNDING	TRN	200 E	1,400 E
107.	X099	HIGHWAY PLANNING, STATEWIDE			
		PLANS FOR FEDERAL AID AND NON-FEDERAL AID PROGRAMS AND PROJECTS THAT INCLUDE ROADWAY CLASSIFICATION, DATA COLLECTION, LONG AND MID-RANGE PLANNING, TRANSPORTATION NEEDS STUDIES, RESEARCH, HRS 343/NEPA STUDIES, CORRIDOR STUDIES, SCOPING, AND TECHNOLOGY TRANSFER AND WORKFORCE DEVELOPMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		4,840	7,420
		TOTAL FUNDING	TRN	1,080 E	1,940 E
			TRN	3,760 N	5,480 N
108.	X235	MOTOR CARRIER SAFETY AND HIGHWAY SAFETY OFFICE FACILITY RENOVATIONS, STATEWIDE			
		CONSTRUCTION TO RENOVATE AND REFURBISH EXISTING BUILDING STRUCTURES AND INSTALL MISCELLANEOUS SITE IMPROVEMENTS UNDER THE WAIMALU VIADUCT.			
		CONSTRUCTION		2,500	
		TOTAL FUNDING	TRN	2,500 E	E
109.	X096	CLOSEOUT OF HIGHWAY RIGHTS-OF-WAY, STATEWIDE			
		LAND ACQUISITION FOR COMPLETION OF ACQUISITION OF OUTSTANDING RIGHT-OF-WAY PARCELS ON PREVIOUSLY CONSTRUCTED PROJECTS OR PROJECTS WITH NECESSARY MITIGATIVE RESPONSES. ALSO, TO PROVIDE FOR THE TRANSFER OF REAL ESTATE INTERESTS FROM THE STATE TO THE COUNTIES FOR THE IMPLEMENTATION OF THE STATE HIGHWAY SYSTEM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		300	
		TOTAL FUNDING	TRN	299 E	E
			TRN	1 N	N

## CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
CAPITAL			FISCAL M	FISCAL M	
ITEM	PROJECT	EXPENDING	YEAR O	YEAR O	
NO.	NO.	AGENCY	2015-2016 F	2016-2017 F	F
110.	X226	CLOSEOUT OF HIGHWAY CONSTRUCTION PROJECTS, STATEWIDE			
		CONSTRUCTION FOR COMPLETION OF OUTSTANDING CONSTRUCTION PROJECTS FOR POSTING OF AS-BUILT PLANS, OUTSTANDING UTILITY BILLINGS AND PAYMENTS TO OTHERS FOR PROJECT RELATED WORK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION	200	200	
		TOTAL FUNDING TRN	199 E	199 E	
		TRN	1 N	1 N	
111.	Y101	CLOSEOUT OF HIGHWAY DESIGN PROJECTS, STATEWIDE			
		DESIGN FOR COMPLETION AND CLOSEOUT OF DESIGN PROJECTS IN ONGOING AND/OR CLOSING STAGES AND/OR REQUIRING FUNDS PREVIOUSLY IDENTIFIED AS NON-LAPSING. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN	1,000	1,000	
		TOTAL FUNDING TRN	200 E	200 E	
		TRN	800 N	800 N	
112.	X200	TRAFFIC COUNTING STATIONS AT VARIOUS LOCATIONS, STATEWIDE			
		CONSTRUCTION FOR INSTALLING TRAFFIC DETECTOR LOOPS AND PIEZOELECTRIC SENSORS, ASSOCIATED WIRING, JUNCTION BOXES AND TRAFFIC CABINETS FOR CONTINUOUS TRAFFIC MONITORING STATIONS AT VARIOUS LOCATIONS ON STATE ROADWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION	125	2,700	
		TOTAL FUNDING TRN	25 E	540 E	
		TRN	100 N	2,160 N	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
113.	X221	TRAFFIC SIGNAL MODERNIZATION AT VARIOUS LOCATIONS, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR UPGRADING OF EXISTING TRAFFIC SIGNAL SYSTEMS, INCLUDING ASSESSMENT AND DEVELOPMENT OF CRITERIA FOR IMPLEMENTATION OF SCHEDULED REPLACEMENTS AND UPGRADES; PROVIDING INTERCONNECTION OF SIGNALIZED INTERSECTIONS; AND UPGRADING TO MEET CURRENT STANDARDS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		1,000	
		CONSTRUCTION			6,000
		TOTAL FUNDING	TRN	1,000E	1,200E
			TRN	N	4,800N
114.	X230	BIKEWAY IMPROVEMENTS AT VARIOUS LOCATIONS, STATEWIDE			
		DESIGN AND CONSTRUCTION TO PROVIDE FOR AND IMPROVE EXISTING BICYCLE FACILITIES ON STATE HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN			50
		CONSTRUCTION		2,250	
		TOTAL FUNDING	TRN	150E	50E
			TRN	2,100N	N
115.	Y102	SIGN RETROREFLECTIVITY PROGRAM, STATEWIDE			
		PLANS FOR THE DEVELOPMENT OF A STATEWIDE SIGN RETROREFLECTIVITY PROGRAM.			
		PLANS		500	
		TOTAL FUNDING	TRN	500E	E
116.	Y103	HIGHWAYS DIVISION ENERGY CONSERVATION MEASURE, STATEWIDE			
		CONSTRUCTION FOR ENERGY CONSERVATION MEASURES INCLUDING LIGHTING UPGRADES, INSTALLATION OF ALTERNATIVE ENERGY SYSTEMS, REPLACEMENT AND/OR UPGRADES OF AIR CONDITIONING SYSTEMS, AND OTHER ENERGY CONSERVATION MEASURES.			
		CONSTRUCTION		15,500	
		TOTAL FUNDING	TRN	15,500E	E

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
116.01.	X091	ADA AND PEDESTRIAN IMPROVEMENTS AT VARIOUS LOCATIONS, STATEWIDE			
		CONSTRUCTION TO PROVIDE FOR AND IMPROVE EXISTING ADA AND PEDESTRIAN FACILITIES ON STATE HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			1,051
		TOTAL FUNDING	TRN	E	1,050E
			TRN	N	1N
116.02.	Y104	KAKUHIHEWA BUILDING OFFICE RENOVATIONS, STATEWIDE			
		DESIGN FOR RENOVATIONS TO STATE DEPARTMENT OF TRANSPORTATION OFFICES IN KAPOLEI, OAHU, TO ACCOMMODATE RELOCATIONS AND SPACE ADJUSTMENTS OF VARIOUS HIGHWAYS DIVISION OFFICES.			
		DESIGN			500
		TOTAL FUNDING	TRN	E	500E
116.03.		PEDESTRIAN AND BICYCLE PATH, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A PROTECTED TWO WAY PEDESTRIAN AND BICYCLE PATH ENCIRCLING THE PERIPHERY OF THE BLOCK CONTAINING KAILUA INTERMEDIATE SCHOOL, KAILUA ELEMENTARY SCHOOL, AND KAILUA LIBRARY; A PROTECTED TWO WAY PEDESTRIAN AND BICYCLE PATH CONNECTION ALONG KAILUA ROAD TO KAILUA BEACH PARK; GROUND AND SITE IMPROVEMENTS AT ADJACENT PROPERTIES AS NECESSARY.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			1,998
		TOTAL FUNDING	TRN	C	2,000C
116.04.		PEDESTRIAN AND BICYCLE PATH, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A PROTECTED TWO WAY PEDESTRIAN AND BICYCLE PATH ALONG THE MAKAI SIDE OF KALANIANA'OLE HIGHWAY CONNECTING WAIMANALO BEACH PARK WITH MAKAPUU BEACH PARK.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			1,998
		TOTAL FUNDING	TRN	C	2,000C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F

## D. ENVIRONMENTAL PROTECTION

## HTH840 - ENVIRONMENTAL MANAGEMENT

1. 840161 WASTEWATER TREATMENT REVOLVING FUND FOR POLLUTION CONTROL, STATEWIDE

CONSTRUCTION TO PROVIDE STATE MATCH (20%) FOR FEDERAL CAPITALIZATION GRANTS FOR WASTEWATER PROJECTS. FUNDS TO BE TRANSFERRED TO THE WATER POLLUTION CONTROL REVOLVING FUND PURSUANT TO CHAPTER 342D, HRS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

CONSTRUCTION		13,031	13,031
TOTAL FUNDING	HTH	2,172 C	2,172 C
	HTH	10,859 N	10,859 N

2. 840162 SAFE DRINKING WATER REVOLVING FUND, STATEWIDE

CONSTRUCTION TO PROVIDE STATE MATCH (20%) FOR FEDERAL CAPITALIZATION GRANTS FOR DRINKING WATER PROJECTS. FUNDS TO BE TRANSFERRED TO THE DRINKING WATER TREATMENT REVOLVING FUND LOAN, PURSUANT TO CHAPTER 340E, HRS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

CONSTRUCTION		10,614	10,614
TOTAL FUNDING	HTH	1,769 C	1,769 C
	HTH	8,845 N	8,845 N

## LNR402 - NATIVE RESOURCES AND FIRE PROTECTION PROGRAM

3. D01E DOFAW BASEYARD IMPROVEMENTS, STATEWIDE

PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AT DIVISION OF FORESTRY AND WILDLIFE BASEYARD FACILITIES.

PLANS		1	
DESIGN		1	1
CONSTRUCTION		748	74
TOTAL FUNDING	LNR	750 C	75 C

4. D02M DOFAW EMERGENCY AND NATURAL DISASTER RESPONSE INFRASTRUCTURE, STATEWIDE

PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO PROVIDE STATEWIDE SUPPORT FOR FIRE AND NATURAL DISASTER RESPONSE.

PLANS		1	1
DESIGN		1	1



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		CONSTRUCTION		997	672
		EQUIPMENT		1	1
		TOTAL FUNDING	LNR	1,000C	675C
5.	D02N	FLOOD AND HAZARD ENVIRONMENTAL ABATEMENT, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO MAINTAIN, REPAIR OR CONSTRUCT IMPROVEMENTS TO CONTROL VARIOUS FLOOD OR ENVIRONMENTAL HAZARDS.			
		PLANS		1	1
		DESIGN		1	1
		CONSTRUCTION		247	247
		EQUIPMENT		1	1
		TOTAL FUNDING	LNR	250C	250C
6.		KAWAINUI ENVIRONMENTAL RESTORATION PROJECT, OAHU			
		DESIGN AND CONSTRUCTION OF ENVIRONMENTAL CLEANUP, WILDLIFE HABITAT RESTORATION, AND MANAGEMENT FACILITY ENHANCEMENTS.			
		DESIGN		200	50
		CONSTRUCTION		1,300	1,150
		TOTAL FUNDING	LNR	1,500C	1,200C
7.		HAWAII WILDLIFE CENTER, HAWAII			
		CONSTRUCTION FOR THE FABRICATION AND INSTALLATION OF EXHIBITS AT THE HAWAII WILDLIFE CENTER AND THREE YEARS OF OPERATIONAL RESERVE TO SUPPORT THE EXHIBITS WHILE STAFF CONTINUES TO DEVELOP LONG-TERM REVENUE SOURCES FOR FINANCIAL SUSTAINABILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		100	
		TOTAL FUNDING	LNR	100C	C
7.01.	D03H	HILO FOREST RESERVE, LAND ACQUISITION, HAWAII			
		LAND ACQUISITION OF ADDITION TO HILO FOREST RESERVE.			
		LAND			2,000
		TOTAL FUNDING	LNR	B	2,000B

## LNR404 - WATER RESOURCES

7.02.	G75B	DEEP MONITOR WELLS, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION TO CONSTRUCT AND/OR REPAIR DEEP MONITOR WELLS STATEWIDE TO MONITOR THE HEALTH OF DRINKING WATER AQUIFERS AND OTHER RELATED COSTS.			
		PLANS			1
		LAND			1

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		DESIGN			1
		CONSTRUCTION			1,997
		TOTAL FUNDING	LNR	C	2,000C
7.03.		KOHALA WATER STUDY, HAWAII			
		PLANS TO STUDY NEW AND EXISTING WATER SOURCES IN THE KOHALA REGION.			
		PLANS			1,500
		TOTAL FUNDING	LNR	C	1,500C
7.04.		EAST MAUI WATER SYSTEMS, MAUI			
		PLANS, DESIGN AND CONSTRUCTION FOR WATER SYSTEMS IN EAST MAUI.			
		PLANS			500
		DESIGN			500
		CONSTRUCTION			2,000
		TOTAL FUNDING	LNR	C	3,000C

## LNR405 - CONSERVATION AND RESOURCES ENFORCEMENT

## 8. HANAHANAPUNI FIRING RANGE PROJECT, KAUAI

PLANS AND DESIGN FOR A FIRING RANGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

PLANS			1	
DESIGN			1,623	
TOTAL FUNDING	LNR		424C	C
	LNR		1,200N	N

## LNR407 - NATURAL AREA RESERVES AND WATERSHED MANAGEMENT

## 9. D01A WATERSHED INITIATIVE, STATEWIDE

DESIGN AND CONSTRUCTION FOR DLNR DIVISION OF FORESTRY AND WILDLIFE WATERSHED INITIATIVE FUNDING SUPPORT FOR WATERSHED PROTECTION, MANAGEMENT AND ADMINISTRATION. THE LEGISLATURE FINDS AND DECLARES THAT THIS APPROPRIATION IS IN THE PUBLIC INTEREST AND FOR THE PUBLIC'S HEALTH, SAFETY AND GENERAL WELFARE OF THE STATE.

DESIGN			1	1
CONSTRUCTION			999	999
TOTAL FUNDING	LNR		1,000C	1,000C

## 10. TANTALUS AND ROUNDTOP, OAHU

PLANS FOR THE DEVELOPMENT OF TANTALUS AND ROUNDTOP DRIVE MASTER PLAN.

PLANS			450	
TOTAL FUNDING	LNR		450C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
11.		HAMAKUA MARSH, OAHU			
		DESIGN FOR A SHARED-USE PATHWAY AT HAMAKUA MARSH.			
		DESIGN		1,500	
		TOTAL FUNDING LNR		1,500 C	
LNR906 - LNR - NATURAL AND PHYSICAL ENVIRONMENT					
12.	G01CS	CAPITAL IMPROVEMENTS PROGRAM STAFF COSTS, STATEWIDE			
		PLANS FOR COSTS RELATED TO WAGES AND FRINGE BENEFITS FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE DEPARTMENT OF LAND AND NATURAL RESOURCES. PROJECT MAY INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENT PROGRAM RELATED POSITIONS.			
		PLANS		3,197	2,141
		TOTAL FUNDING LNR		3,197 C	C
			LNR	A	2,141 A
13.	J43	MAUI OFFICE ANNEX BUILDING, MAUI			
		DESIGN AND CONSTRUCTION FOR REPLACEMENT BUILDING AND RELATED IMPROVEMENTS TO SUPPORT VARIOUS DEPARTMENTAL DIVISIONS AND PROGRAMS.			
		DESIGN		1	
		CONSTRUCTION		3,999	
		TOTAL FUNDING LNR		4,000 C	C
14.	J00E	KAHOOLAWE ISLAND RESERVE COMMISSION, HAWAII			
		PLANS AND DESIGN FOR AN EDUCATION CENTER, EXHIBIT AREA/VISITOR CENTER AND ADMINISTRATIVE BUILDING.			
		PLANS		1	
		DESIGN		499	
		TOTAL FUNDING LNR		500 C	C
15.		WAIAKEA UKA COMMUNITY CENTER, HAWAII			
		PLANS, LAND ACQUISITION AND DESIGN FOR A COMMUNITY CENTER IN WAIAKEA UKA.			
		PLANS		1	
		LAND		1	
		DESIGN		598	
		TOTAL FUNDING LNR		600 C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F

## E. HEALTH

## HTH100 - COMMUNICABLE DISEASE AND PUBLIC HEALTH NURSING

0.01. 100171 KALAUPAPA SETTLEMENT, ENVIRONMENTAL STUDIES, MOLOKAI

PLANS, DESIGN AND CONSTRUCTION TO CLOSE LANDFILLS AND ASSESS OTHER ENVIRONMENTAL ISSUES.

PLANS			174
DESIGN			230
CONSTRUCTION			1
TOTAL FUNDING	AGS	C	405 C

0.02. 100172 KALAUPAPA SETTLEMENT, IMPROVEMENTS, MOLOKAI

DESIGN AND CONSTRUCTION TO RE-ROOF BUILDINGS AND OTHER RELATED IMPROVEMENTS.

DESIGN			250
CONSTRUCTION			1
TOTAL FUNDING	AGS	C	251 C

## HTH210 - HAWAII HEALTH SYSTEMS CORPORATION - CORPORATE OFFICE

0.03. UNIVERSITY HOSPITAL, HAWAII

PLANS FOR FEASIBILITY STUDY FOR A NEW UNIVERSITY HOSPITAL IN KONA.

PLANS			500
TOTAL FUNDING	HTH	C	500 C

## HTH212 - HAWAII HEALTH SYSTEMS CORPORATION - REGIONS

1. 212001 HAWAII HEALTH SYSTEMS CORPORATION, LUMP SUM CIP, STATEWIDE

PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR REPAIRS, MAINTENANCE, UPGRADES AND IMPROVEMENTS TO INCLUDE HEALTH AND SAFETY PROJECTS FOR THE HAWAII HEALTH SYSTEMS CORPORATION.

PLANS		1	1
DESIGN		1	1
CONSTRUCTION		19,997	11,997
EQUIPMENT		1	1
TOTAL FUNDING	HTH	20,000 C	12,000 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
HTH214 - MAUI HEALTH SYSTEM, KFH LLC					
1.01.		MAUI HEALTH SYSTEM, A KAISER FOUNDATION HOSPITAL, LLC, MAUI			
		CONSTRUCTION FOR MAUI HEALTH SYSTEM, A KAISER FOUNDATION HOSPITAL, LLC'S FIRST YEAR OF OPERATIONS OF ITS THREE MAUI COMMUNITY HOSPITALS IF HAWAII HEALTH SYSTEMS CORPORATION'S MAUI REGION CLOSES ITS THREE HOSPITALS.			
		CONSTRUCTION			6,000
		TOTAL FUNDING HTH		C	6,000 C
HTH430 - ADULT MENTAL HEALTH - INPATIENT					
1.02.	430171	HAWAII STATE HOSPITAL, PATIENT CARE FACILITY, OAHU			
		DESIGN AND CONSTRUCTION FOR A PATIENT CARE FACILITY AT THE HAWAII STATE HOSPITAL.			
		DESIGN			7,500
		CONSTRUCTION			153,000
		TOTAL FUNDING AGS		C	160,500 C
1.03.	430172	HAWAII STATE HOSPITAL, HEALTH AND SAFETY, OAHU			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO HAWAII STATE HOSPITAL. PROJECTS ARE NECESSARY TO MAINTAIN HEALTH AND SAFETY FOR PATIENTS AND STAFF.			
		DESIGN			285
		CONSTRUCTION			1,047
		TOTAL FUNDING AGS		C	1,332 C
HTH907 - GENERAL ADMINISTRATION					
2.	907161	DEPARTMENT OF HEALTH, HEALTH AND SAFETY, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO HEALTH FACILITIES STATEWIDE. PROJECTS ARE NECESSARY TO MAINTAIN HEALTH AND SAFETY FOR CLIENTS AND STAFF.			
		DESIGN		1	1
		CONSTRUCTION		3,558	58
		TOTAL FUNDING AGS		3,559 C	59 C
3.		NATIONAL KIDNEY FOUNDATION OF HAWAII, OAHU			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A PROGRAM DEVELOPMENT CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		LAND		1	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		DESIGN		200	
		CONSTRUCTION		1,797	
		EQUIPMENT		1	
		TOTAL FUNDING	HTH	2,000C	C
4.		ST. FRANCIS HEALTHCARE FOUNDATION OF HAWAII, OAHU			
		CONSTRUCTION FOR RENOVATIONS TO COMMERCIAL KITCHEN AND DINING AREA TO SERVE SKILLED NURSING FACILITY, HOSPICE PATIENTS, AND SENIORS AND FAMILIES ACCESSING LILIHA CAMPUS SERVICES. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		500	
		TOTAL FUNDING	HTH	500C	C
5.		WAIMANALO HEALTH CENTER, OAHU			
		CONSTRUCTION FOR A NEW TWO-STORY OUTPATIENT CARE FACILITY WHICH INCLUDES: MEDICAL, BEHAVIORAL HEALTH THERAPY, VISION, PHARMACY, NUTRITION CLASSES, AND SUPPORT SERVICES. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		500	
		TOTAL FUNDING	HTH	500C	C
5.01.	907171	HILO COUNSELING CENTER AND KEAWE HEALTH CENTER IMPROVEMENTS, HAWAII			
		DESIGN AND CONSTRUCTION FOR RE-ROOFING; INTERIOR AND EXTERIOR IMPROVEMENTS; SITE IMPROVEMENTS.			
		DESIGN			1
		CONSTRUCTION			6,750
		TOTAL FUNDING	AGS	C	6,751C
5.02.	907172	DIAMOND HEAD HEALTH CENTER, BUILDING AND SITE IMPROVEMENTS, OAHU			
		DESIGN AND CONSTRUCTION TO WATERPROOF AND REMEDIATE WATER DAMAGE; AND IMPROVEMENTS TO PAVED AND LANDSCAPED AREAS AT THE HEALTH CENTER.			
		DESIGN			1
		CONSTRUCTION			768
		TOTAL FUNDING	AGS	C	769C
5.03.	907174	DIAMOND HEAD HEALTH CENTER, AIR CONDITIONING SYSTEM IMPROVEMENTS, PHASE 2, OAHU			
		DESIGN AND CONSTRUCTION FOR AIR CONDITIONING IMPROVEMENTS AT DIAMOND HEAD HEALTH CENTER.			
		DESIGN			1
		CONSTRUCTION			3,596
		TOTAL FUNDING	AGS	C	3,597C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
5.04.	907175	LANAKILA HEALTH CENTER AIR CONDITIONING IMPROVEMENTS, OAHU			
		DESIGN AND CONSTRUCTION FOR AIR CONDITIONING IMPROVEMENTS AT LANAKILA HEALTH CENTER.			
		DESIGN			206
		CONSTRUCTION			1
		TOTAL FUNDING	AGS	C	207C
5.05.	907173	WINDWARD HEALTH CENTER, RE-ROOF, PHASE 2, OAHU			
		DESIGN AND CONSTRUCTION FOR RE-ROOFING.			
		DESIGN			1
		CONSTRUCTION			1,564
		TOTAL FUNDING	AGS	C	1,565C
5.06.	907176	WAIMANO RIDGE, IMPROVEMENTS TO BUILDINGS AND SITE, OAHU			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO WAIMANO RIDGE BUILDINGS AND SITE.			
		DESIGN			404
		CONSTRUCTION			6,111
		TOTAL FUNDING	AGS	C	6,515C
5.07.		BLOOD BANK OF HAWAII, OAHU			
		CONSTRUCTION FOR RENOVATIONS AND IMPROVEMENTS TO THE NEW FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			1,488
		TOTAL FUNDING	HTH	C	1,488C
5.08.		HAMAKUA HEALTH CENTER, HAWAII			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR MODULAR BUILDING ADDITION TO THE KOHALA CLINIC. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN			1
		CONSTRUCTION			248
		EQUIPMENT			1
		TOTAL FUNDING	HTH	C	250C
5.09.		HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION, HAWAII			
		CONSTRUCTION FOR A NEW ADULT DAY CARE FACILITY IN HILO. THIS PROJECT QUALIFIES AS A GRANT PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			300
		TOTAL FUNDING	HTH	C	300C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2015-2016	FISCAL YEAR 2016-2017
5.10.		KUAKINI MEDICAL CENTER, OAHU			
		CONSTRUCTION AND EQUIPMENT FOR AN EMERGENCY ELECTRICAL GENERATOR SYSTEM. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			799
		EQUIPMENT			1
		TOTAL FUNDING	HTH	C	800C
5.11.		PROJECT VISION HAWAII, OAHU			
		CONSTRUCTION AND EQUIPMENT FOR MOBILE OFFICE AND MEDICAL SCREENING FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			159
		EQUIPMENT			1
		TOTAL FUNDING	HTH	C	160C
5.12.		WAIMANALO HEALTH CENTER, OAHU			
		CONSTRUCTION FOR THE EXPANSION OF THE HEALTH CARE FACILITY FOR WAIMANALO HEALTH CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			1,000
		TOTAL FUNDING	HTH	C	1,000C
<b>F. SOCIAL SERVICES</b>					
<b>HMS301 - CHILD PROTECTIVE SERVICES</b>					
1.		HOOMANA, KAUAI			
		CONSTRUCTION FOR RENOVATIONS FOR THE TRAINING CENTER FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		88	
		TOTAL FUNDING	HMS	88C	C
<b>DEF112 - SERVICES TO VETERANS</b>					
2.	P16031	VA LONG-TERM CARE FACILITY, OAHU			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A NEW LONG-TERM CARE FACILITY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS			1
		LAND			1
		DESIGN			1
		CONSTRUCTION			58,506
		EQUIPMENT			4,304
		TOTAL FUNDING	DEF	C	25,384C
			DEF	N	37,429N



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
3.	P14045	OAHU VETERANS COUNCIL, OAHU			
		CONSTRUCTION FOR FINAL PHASE OF THE OAHU VETERANS CENTER LOCATED AT FOSTER VILLAGE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		75	
		TOTAL FUNDING DEF		75C	C
3.01.		MOLOKAI VETERANS CENTER, MOLOKAI			
		PLANS, DESIGN AND CONSTRUCTION OF A PARKING LOT AND INSTALLATION OF SEPTIC TANK.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			3,998
		TOTAL FUNDING DEF		C	4,000C
3.02.		PACIFIC AVIATION MUSEUM PEARL HARBOR, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR CONTROL TOWER ELEVATOR. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			247
		EQUIPMENT			1
		TOTAL FUNDING DEF		C	250C
<b>HMS220 - RENTAL HOUSING SERVICES</b>					
4.	HPHA23	LUMP SUM PUBLIC HOUSING DEVELOPMENT, IMPROVEMENTS, AND RENOVATIONS, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO DEVELOP, UPGRADE OR RENOVATE PUBLIC HOUSING FACILITIES. INCLUDING GROUND AND SITE IMPROVEMENTS, INFRASTRUCTURE, EQUIPMENT, APPURTENANCES AND ALL RELATED AND ASSOCIATED PROJECT COSTS FOR PUBLIC HOUSING DEVELOPMENT, IMPROVEMENTS, AND RENOVATIONS, STATEWIDE. INCLUDING FUNDS FOR PERMANENT AND NON-PERMANENT CIP PROJECT RELATED POSITIONS.			
		PLANS		1	1
		DESIGN		1	1
		CONSTRUCTION		4,147	29,147
		EQUIPMENT		1	1
		TOTAL FUNDING HMS		4,150C	29,150C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
5.	P16033	HAWAII PUBLIC HOUSING AUTHORITY, STATEWIDE			
		PLANS FOR COSTS RELATED TO WAGES AND FRINGE BENEFITS FOR PERMANENT AND NON-PERMANENT PROJECT FUNDED STAFF POSITIONS FOR IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE HAWAII PUBLIC HOUSING AUTHORITY. FUNDS MAY BE USED TO MATCH FEDERAL AND NON-STATE FUNDS AS MAY BE AVAILABLE.			
		PLANS		850	560
		TOTAL FUNDING	HMS	850 C	C
			HMS	A	560 A
5.01.	HPHA24	LUMP SUM PUBLIC HOUSING VACANT UNIT REPAIRS AND RENOVATION, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR PUBLIC HOUSING VACANT UNIT REPAIRS INCLUDING ALL RELATED AND ASSOCIATED PROJECT EXPENSES INCLUDING BUT NOT LIMITED TO SALARIES, ADMINISTRATION, RELOCATION, TEMPORARY ACCOMMODATIONS, ACCESSIBILITY IMPROVEMENTS AND REPAIR, EXTERIOR, INTERIOR, BUILDING SYSTEMS AND UNIT DEFICIENCIES.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			5,997
		EQUIPMENT			1
		TOTAL FUNDING	HMS	C	6,000 C
HHL602 - PLANNING AND DEVELOPMENT FOR HAWAIIAN HOMESTEADS					
6.	P11002	PAPAKOLEA SEWER SYSTEM UPGRADES, PAPAKOLEA, OAHU			
		PLANS, DESIGN AND CONSTRUCTION TO REBUILD EXISTING SEWER SYSTEM IN DHHL PAPAKOLEA SUBDIVISION.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		1,748	2,000
		TOTAL FUNDING	HHL	1,750 C	2,000 C
6.01.	P14001	PAPAKOLEA SEWER SYSTEM IMPROVEMENTS, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR SEWER SYSTEM IMPROVEMENTS, PAPAKOLEA, OAHU.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			8,998
		TOTAL FUNDING	HHL	C	9,000 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
7.	1604	NAHASDA DEVELOPMENT PROJECTS, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR VARIOUS HAWAIIAN HOMESTEAD PROJECTS AND IMPROVEMENTS STATEWIDE, PURSUANT TO THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT, PUBLIC LAW 107-73, 107TH CONGRESS. FUNDS NOT NEEDED IN A COST ELEMENT MAY BE USED IN ANOTHER. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		1	1
		DESIGN		1	1
		CONSTRUCTION		19,998	19,998
		TOTAL FUNDING	HHL	20,000N	20,000N
8.	1607	KAILAPA COMMUNITY ASSOCIATION, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR THE KAILAPA COMMUNITY RESOURCE CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		313	
		TOTAL FUNDING	HHL	315C	C
9.	1606	KALAMAULA HOMESTEADERS ASSOCIATION, MOLOKAI			
		PLANS, DESIGN AND CONSTRUCTION FOR REDEVELOPMENT OF THE KIOWEA PARK FACILITIES. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		498	
		TOTAL FUNDING	HHL	500C	C
9.01.		WAIANAE COAST EMERGENCY ACCESS ROAD TRAFFIC RELIEF PROJECT, OAHU			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT TO EXTEND THE WAIANAE COAST EMERGENCY ACCESS ROAD THROUGH NANAKULI HOMESTEAD COMMUNITY.			
		PLANS			1
		LAND			1
		DESIGN			1
		CONSTRUCTION			2,996
		EQUIPMENT			1
		TOTAL FUNDING	HHL	C	3,000C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O	YEAR O
				2015-2016 F	2016-2017 F
9.02.		HOMESTEAD COMMUNITY DEVELOPMENT, MAUI			
		PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR NONPOTABLE AGRICULTURAL WATERLINE IN KEOKEA, MAUI. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS			1
		LAND			1
		DESIGN			1
		CONSTRUCTION			597
		TOTAL FUNDING	HHL	N	600 N
9.03.		KAILAPA COMMUNITY ASSOCIATION, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR RESOURCE CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. <sup>6</sup> THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			998
		TOTAL FUNDING	HHL	N	1,000 N
9.04.		KALAMAULA HOMESTEADERS ASSOCIATION, MOLOKAI			
		CONSTRUCTION FOR KIOWEA PARK AND PAVILION. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. <sup>6</sup> THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			1,300
		TOTAL FUNDING	HHL	N	1,300 N
9.05.		LAIOPUA <sup>6</sup> 2020, HAWAII			
		DESIGN AND CONSTRUCTION FOR COMMUNITY CENTER FOR LAIOPUA 2020. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. <sup>6</sup> THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN			1
		CONSTRUCTION			999
		TOTAL FUNDING	HHL	N	1,000 N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
9.06.		MOLOKAI HOMESTEAD FARMERS ALLIANCE, MOLOKAI			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENTS AND RENOVATIONS OF THE LANIKEHA CENTER AND COMMERCIAL KITCHEN. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN			1
		CONSTRUCTION			1,698
		EQUIPMENT			1
		TOTAL FUNDING	HHL	N	1,700 N
9.07.		PANAWEA COMMUNITY ALLIANCE, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR HEALTH FACILITY FOR PANAEWA COMMUNITY ALLIANCE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			998
		TOTAL FUNDING	HHL	N	1,000 N

## G. FORMAL EDUCATION

## EDN100 - SCHOOL-BASED BUDGETING

1.	3	LUMP SUM CIP - CONDITION, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	1
		DESIGN		22,000	2,000
		CONSTRUCTION		111,998	74,123
		EQUIPMENT		1	1
		TOTAL FUNDING	EDN	134,000C	76,125C
2.		LUMP SUM CIP - EQUITY, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR EQUITY, INCLUDING RENOVATION, EXPANSION AND/OR REPLACEMENT OF FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		PLANS		1	1
		LAND		1	1
		DESIGN		1	1
		CONSTRUCTION		15,309	16,076
		EQUIPMENT		1	1
		TOTAL FUNDING EDN		15,313 C	16,080 C
3.		LUMP SUM CIP - PROGRAM SUPPORT, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR PROGRAM SUPPORT INCLUDING NEW FACILITIES, TEMPORARY FACILITIES, AND IMPROVEMENTS AND/OR ADDITIONS TO EXISTING FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	1
		LAND		1	1
		DESIGN		1	1
		CONSTRUCTION		16,496	11,621
		EQUIPMENT		1	1
		TOTAL FUNDING EDN		16,500 C	11,625 C
4.		LUMP SUM CIP - CAPACITY, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR CAPACITY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	1
		LAND		1	1
		DESIGN		1	1
		CONSTRUCTION		9,996	16,121
		EQUIPMENT		1	1
		TOTAL FUNDING EDN		10,000 C	16,125 C
5.		LUMP SUM CIP - PROJECT ADJUSTMENT FUND, STATEWIDE			
		DESIGN FOR A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT. OTHER DEPARTMENT OF EDUCATION PROJECTS WITHIN THIS ACT WITH UNREQUIRED BALANCES MAY BE TRANSFERRED INTO THIS PROJECT.			
		DESIGN		1	1
		TOTAL FUNDING EDN		1 C	1 C
5.01.		AIEA HIGH SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR A WEIGHT TRAINING ROOM, GROUND AND SITE IMPROVEMENTS, AND EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			754
		EQUIPMENT			50
		TOTAL FUNDING EDN		C	805 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
6.		AIEA INTERMEDIATE SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR AN APPLIED TECHNOLOGY CENTER, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.			
		DESIGN		300	
		CONSTRUCTION		2,800	
		EQUIPMENT		100	
		TOTAL FUNDING EDN		3,200 C	
6.01.		AIEA INTERMEDIATE SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR EXPANSION OF BAND ROOM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			1,998
		EQUIPMENT			1
		TOTAL FUNDING EDN		C	2,000 C
7.		ALA WAI ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION AND EQUIPMENT FOR THE RENOVATION OF THE INNOVATION CENTER.			
		CONSTRUCTION		179	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		180 C	
8.		ALA WAI ELEMENTARY SCHOOL; RE-ROOF CAFETERIA BUILDING, OAHU			
		DESIGN AND CONSTRUCTION TO RE-ROOF THE CAFETERIA BUILDING.			
		DESIGN		40	
		CONSTRUCTION		210	
		TOTAL FUNDING EDN		250 C	
8.01.		ALA WAI ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR PHYSICAL FITNESS STATION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION			100
		TOTAL FUNDING EDN		C	100 C
8.02.		ALA WAI ELEMENTARY SCHOOL, OAHU			
		PLANS AND DESIGN FOR COVERED PLAY COURT.			
		PLANS			100
		DESIGN			100
		TOTAL FUNDING EDN		C	200 C
9.		ANUENUE HAWAIIAN IMMERSION SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A FREE-STANDING LOCKER, SHOWER ROOM AND COVERED PLAY COURT.			

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		348	
		TOTAL FUNDING	EDN	350 C	C
10.		AUGUST AHRENS ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR ELECTRICAL UPGRADES.			
		CONSTRUCTION		750	
		TOTAL FUNDING	EDN	750 C	C
10.01.		AUGUST AHRENS ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR ELECTRICAL UPGRADES IN BUILDINGS I, J, AND M AND ONE PORTABLE CLASSROOM.			
		DESIGN			1
		CONSTRUCTION			1,922
		EQUIPMENT			1
		TOTAL FUNDING	EDN	C	1,924 C
10.02.		AUGUST AHRENS ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR RESTROOM RENOVATIONS FOR BUILDINGS A AND B; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			565
		TOTAL FUNDING	EDN	C	566 C
10.03.	Q81005	CAMPBELL HIGH SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR A NEW CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			11,998
		EQUIPMENT			1
		TOTAL FUNDING	EDN	C	12,000 C
10.04.		BALDWIN HIGH SCHOOL, MAUI			
		DESIGN AND CONSTRUCTION FOR PARKING LOT IMPROVEMENTS, INCLUDING PEDESTRIAN ROUTES AND IMPROVED STUDENT DROP-OFF AND TRAFFIC FLOW; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			400
		CONSTRUCTION			3,000
		TOTAL FUNDING	EDN	C	3,400 C



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
11.		CASTLE HIGH SCHOOL, OAHU			
		CONSTRUCTION FOR THE EXPANSION OF THE CAFETERIA; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION		4,117	
		TOTAL FUNDING EDN		4,117C	C
11.01.		CASTLE HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR CLASSROOM RENOVATION TO SUPPORT DIGITAL MEDIA/VIDEO PRODUCTIONS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			149
		TOTAL FUNDING EDN		C	150C
12.		CENTRAL MIDDLE SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE REPAINTING OF ALL BUILDINGS AND STRUCTURES OF THE SCHOOL.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		297	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		300C	C
13.		CENTRAL MIDDLE SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE REPAVING AND RESURFACING OF THE KUKUI PARKING LOT, ADMINISTRATION PARKING LOT AND THE QUEEN EMMA PARKING LOT.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		307	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		310C	C
13.01.		CENTRAL MIDDLE SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR THE RENOVATION OF A BUILDING RESTROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			199
		TOTAL FUNDING EDN		C	200C
14.		DOLE MIDDLE SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE IMPROVEMENT OF SCHOOL FACILITIES.			
		PLANS		1	
		DESIGN		1	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
		CONSTRUCTION		1,997	
		EQUIPMENT		1	
		TOTAL FUNDING	EDN	2,000C	
15.		EWA BEACH ELEMENTARY SCHOOL, OAHU			C
		PLANS, DESIGN AND CONSTRUCTION FOR A/C AND ELECTRICAL UPGRADES FOR ENTIRE SCHOOL.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		1,998	
		TOTAL FUNDING	EDN	2,000C	C
16.		EWA ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A/C AND ELECTRICAL UPGRADES FOR BUILDINGS C & D.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		778	
		TOTAL FUNDING	EDN	780C	C
17.		FARRINGTON HIGH SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR CAMPUS MODERNIZATION.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		998	
		TOTAL FUNDING	EDN	1,000C	C
17.01.		FARRINGTON HIGH SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO CONVERT THREE ROOMS TO P.E. FACILITIES.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			597
		EQUIPMENT			1
		TOTAL FUNDING	EDN	C	600C
17.02.		HAAHEO ELEMENTARY SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION FOR A COVERED PLAYCOURT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			1,999
		TOTAL FUNDING	EDN	C	2,000C
17.03.		HEEIA ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR FIRE LANE ACCESS TO REAR OF SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			299
		TOTAL FUNDING	EDN	C	300C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
17.04.		HIGHLANDS INTERMEDIATE SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR COVERED OR SHADE STRUCTURE AT COURTYARD; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			299
		TOTAL FUNDING	EDN	C	300C
18.		HILO INTERMEDIATE SCHOOL, HAWAII			
		PLANS AND DESIGN FOR BUILDING A RENOVATIONS PHASE I.			
		PLANS		1	
		DESIGN		1,999	
		TOTAL FUNDING	EDN	2,000C	C
18.01.		HONOKAA HIGH AND INTERMEDIATE SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION FOR NEW AND/OR RENOVATION OF RESTROOMS IN AUDITORIUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			500
		CONSTRUCTION			1,000
		TOTAL FUNDING	EDN	C	1,500C
19.		HONOWAI ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR PHASE 1B OF THE ADMINISTRATIVE BUILDING.			
		CONSTRUCTION		2,373	
		TOTAL FUNDING	EDN	2,373C	C
19.01.		HONOWAI ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A NEW CLASSROOM BUILDING AND RENOVATION OF RELOCATED FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			16,417
		EQUIPMENT			1
		TOTAL FUNDING	EDN	C	16,420C
20.		ILIMA INTERMEDIATE AND KAIMILOA ELEMENTARY HEAT ABATEMENT IMPROVEMENTS, OAHU			
		DESIGN AND CONSTRUCTION FOR AIR CONDITIONING FOR CAMPUS WIDE HEAT ABATEMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		500	
		CONSTRUCTION		4,500	
		TOTAL FUNDING	EDN	5,000C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
21.		JEFFERSON ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR PHOTOVOLTAIC SYSTEM FOR THE AQUAPONICS SYSTEM.			
		CONSTRUCTION		150	
		TOTAL FUNDING EDN		150C	C
22.		JEFFERSON ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR FENCE REPLACEMENT.			
		DESIGN		4	
		CONSTRUCTION		56	
		TOTAL FUNDING EDN		60C	C
22.01.		JEFFERSON ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A LEARNING CENTER ON AINAKEA WAY.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			198
		TOTAL FUNDING EDN		C	200C
23.		KAAAWA ELEMENTARY SCHOOL PORTABLE ADMINISTRATION BUILDING, OAHU			
		CONSTRUCTION FOR THE CURRENT PORTABLE ADMINISTRATIVE SPACE IS SUBSTANDARD, SMALL, AND NOT FUNCTIONAL, AS WELL AS INFECTED WITH MOLD AND ASBESTOS. THIS WILL PROVIDE KAAAWA ELEMENTARY SCHOOL WITH A NEW PORTABLE ADMINISTRATION BUILDING THAT CAN MORE PROPERLY AND SAFELY ADDRESS THEIR NEEDS.			
		CONSTRUCTION		800	
		TOTAL FUNDING EDN		800C	C
23.01.		KAHAKAI ELEMENTARY SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION FOR ACCESS ROAD SAFETY IMPROVEMENTS.			
		DESIGN			1
		CONSTRUCTION			354
		TOTAL FUNDING EDN		C	355C
23.02.		KAHUKU HIGH AND INTERMEDIATE SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR REPLACEMENT OF BLEACHERS AND NEW ACCESSIBLE RESTROOM FACILITIES AT THE ATHLETIC FIELD; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			50
		DESIGN			50
		CONSTRUCTION			2,900
		TOTAL FUNDING EDN		C	3,000C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
24.		KAIMUKI HIGH SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR PHASE II TO PAVE GRAVEL PARKING LOT OF THE GYM.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		998	
		TOTAL FUNDING EDN		1,000 C	C
24.01.		KAIMUKI HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR REPLACEMENT OF SEATING IN AUDITORIUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			499
		TOTAL FUNDING EDN		C	500 C
24.02.		KAIMUKI HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR AIR CONDITIONING FOR CLASSROOMS IN BUILDINGS A AND H; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			35
		CONSTRUCTION			215
		TOTAL FUNDING EDN		C	250 C
25.		KAIMUKI MIDDLE SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR CONVERSION OF V BUILDING CLASSROOM 1 INTO SCIENCE LAB; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		597	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		600 C	C
26.		KALAHEO HIGH SCHOOL, CAMPUS REWIRE FIRE ALARM, OAHU			
		CONSTRUCTION FOR CAMPUS REWIRE FIRE ALARM SYSTEM FOR KALAHEO HIGH SCHOOL.			
		CONSTRUCTION		240	
		TOTAL FUNDING EDN		240 C	C
27.		KALANI HIGH SCHOOL, OAHU			
		CONSTRUCTION FOR A MULTI-PURPOSE ATHLETIC FACILITY, INCLUDING GIRLS LOCKER ROOM AND SHOWER AREAS WHICH CONFORM TO TITLE IX REQUIREMENTS.			
		CONSTRUCTION		3,500	
		TOTAL FUNDING EDN		3,500 C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
28.		KALEIOPUU ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR A NEW COVERED WALKWAY FROM THE CAFETERIA TO BUILDING D.			
		DESIGN		1	
		CONSTRUCTION		1,449	
		TOTAL FUNDING EDN		1,450 C	C
28.01.		KALIHI ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE IMPROVEMENT OF SCHOOL FACILITIES.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			997
		EQUIPMENT			1
		TOTAL FUNDING EDN		C	1,000 C
28.02.		KALIHI KAI ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR PARKING LOTS, STUDENT DROPOFFS, AND SAFETY RELATED IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			329
		TOTAL FUNDING EDN		C	330 C
29.		KALIHI UKA ELEMENTARY SCHOOL, OAHU			
		PLANS, CONSTRUCTION AND EQUIPMENT FOR PURCHASE AND INSTALLATION OF CEILING FANS IN CLASSROOMS.			
		PLANS		5	
		CONSTRUCTION		10	
		EQUIPMENT		5	
		TOTAL FUNDING EDN		20 C	C
29.01.		KALIHI UKA ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE IMPROVEMENT OF SCHOOL FACILITIES, INCLUDING THE INSTALLATION AND MAINTENANCE OF A WHEELCHAIR LIFT FOR THE CAFETERIA AND LIBRARY.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			997
		EQUIPMENT			1
		TOTAL FUNDING EDN		C	1,000 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
29.02.		KANEOHE ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR NET ZERO MODULAR CLASSROOM AND IMPROVEMENTS TO DRIVEWAY AND PARKING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			539
		EQUIPMENT			1
		TOTAL FUNDING	EDN	C	541C
29.03.		KANOELANI ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF A PORTABLE CLASSROOM.			
		DESIGN			1
		CONSTRUCTION			499
		TOTAL FUNDING	EDN	C	500C
29.04.		KAPIOLANI ELEMENTARY SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION FOR A COVERED PLAYCOURT.			
		DESIGN			100
		CONSTRUCTION			1,400
		TOTAL FUNDING	EDN	C	1,500C
30.		KAPOLEI MIDDLE SCHOOL, OAHU			
		PLANS AND DESIGN FOR ADDITIONAL PARKING.			
		PLANS		1	
		DESIGN		99	
		TOTAL FUNDING	EDN	100C	C
31.		KAPOLEI MIDDLE SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR NEW BUS LANES AND DROP OFF ZONES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		250	
		CONSTRUCTION		1,550	
		TOTAL FUNDING	EDN	1,800C	C
31.01.		KAPOLEI MIDDLE SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR RE-ROOFING OF BUILDINGS A, G AND H; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			2,599
		TOTAL FUNDING	EDN	C	2,600C
31.02.		KAPUNAHALA ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR TWO PORTABLE CLASSROOMS.			
		DESIGN			1

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
		CONSTRUCTION EQUIPMENT			398
		TOTAL FUNDING	EDN	C	1 400 C
31.03.		KAU HIGH SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION FOR WALKWAY LIGHTING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			149
		TOTAL FUNDING	EDN	C	150 C
31.04.		KEAAU ELEMENTARY SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION TO REPLACE DETERIORATED GUTTERS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			199
		TOTAL FUNDING	EDN	C	200 C
32.		KEALAKEHE ELEMENTARY SCHOOL, HAWAII			
		CONSTRUCTION FOR GROUND AND SITE IMPROVEMENTS FOR ADDITIONAL PARKING.			
		CONSTRUCTION		300	
		TOTAL FUNDING	EDN	300 C	C
32.01.		KEAUKAHA ELEMENTARY SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION FOR CAFETERIA EQUIPMENT INSTALLATION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			599
		TOTAL FUNDING	EDN	C	600 C
33.		KEONEPOKO ELEMENTARY SCHOOL, HAWAII			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE TRANSITION FROM KEAAU ELEMENTARY SCHOOL TO KEONEPOKO ELEMENTARY SCHOOL.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		997	
		EQUIPMENT		1	
		TOTAL FUNDING	EDN	1,000 C	C
33.01.		NEW HIGH SCHOOL IN KIHAI, MAUI			
		DESIGN AND CONSTRUCTION FOR PHASE II FOR THE SCHOOL.			
		DESIGN			1
		CONSTRUCTION			37,499
		TOTAL FUNDING	EDN	C	37,500 C



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
34.		KING INTERMEDIATE SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR REPAIR AND MAINTENANCE OF BUILDING C BATHROOM PIPES AND CEILING.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		347	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		350C	C
34.01.		KING KEKAULIKE HIGH SCHOOL, MAUI			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR AMPHITHEATER IMPROVEMENTS IN THE QUAD AREA.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			597
		EQUIPMENT			1
		TOTAL FUNDING EDN		C	600C
35.		KING KEKAULIKE HIGH SCHOOL, MAUI			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR TRACK AND FIELD.			
		DESIGN		1	
		CONSTRUCTION		998	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		1,000C	C
35.01.		KONAWAENA HIGH SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION FOR LIGHTING SYSTEM REPLACEMENT AND SCOREBOARDS IN GYMNASIUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			334
		TOTAL FUNDING EDN		C	335C
35.02.		KUHIO ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION AND EQUIPMENT FOR SCHOOL CAFETERIA REPAINTING.			
		CONSTRUCTION			50
		EQUIPMENT			50
		TOTAL FUNDING EDN		C	100C
36.		KULA ELEMENTARY SCHOOL, MAUI			
		PLANS, DESIGN AND CONSTRUCTION FOR A WATER FILTRATION SYSTEM.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		498	
		TOTAL FUNDING EDN		500C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
37.		LAHAINALUNA HIGH SCHOOL, MAUI			
		CONSTRUCTION AND EQUIPMENT FOR A NEW 8 CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION		9,910	
		EQUIPMENT		90	
		TOTAL FUNDING EDN		10,000 C	
37.01.		LAHAINALUNA HIGH SCHOOL, MAUI			
		CONSTRUCTION FOR AIR CONDITIONING.			
		CONSTRUCTION			650
		TOTAL FUNDING EDN		C	650 C
37.02.		LAHAINALUNA HIGH SCHOOL, MAUI			
		CONSTRUCTION TO RE-ROOF BUILDING A.			
		CONSTRUCTION			120
		TOTAL FUNDING EDN		C	120 C
38.		LANAKILA ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR THE INSTALLATION OF A GATE AT THE CORNER OF ALANEO STREET AND KUAKINI STREET; BUILDING OF A WALKWAY FROM THE SIDEWALK TO THE PARKING LOT ACROSS THE STOP SIGN OUTSIDE THE CAFETERIA; AND PAINTING OF A CROSSWALK FROM THE BOTTOM OF THE WALKWAY TO THE CAFETERIA ENTRANCE.			
		CONSTRUCTION		5	
		TOTAL FUNDING EDN		5 C	C
38.01.		LEHUA ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR COVERED OR SHADE STRUCTURE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			999
		TOTAL FUNDING EDN		C	1,000 C
39.		LEILEHUA HIGH SCHOOL, OAHU			
		PLANS AND DESIGN OF NEW SCIENCE/ CLASSROOM BUILDING.			
		PLANS		1	
		DESIGN		999	
		TOTAL FUNDING EDN		1,000 C	C
40.		LIHOLIHO ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR EXPANSION OF 8TH AVENUE PARKING LOT.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		248	
		TOTAL FUNDING EDN		250 C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
41.		LINCOLN ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION AND EQUIPMENT TO RENOVATE PLAYGROUND.			
		CONSTRUCTION		4	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		5C	C
42.		LUNALILO ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR ELECTRICAL SYSTEM UPGRADE.			
		DESIGN		1	
		CONSTRUCTION		498	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		500C	C
43.		LUNALILO ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE RENOVATION OF THE PLAYGROUND.			
		DESIGN		1	
		CONSTRUCTION		48	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		50C	C
44.		LUNALILO ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR ELECTRICAL UPGRADES TO BRING MORE POWER INTO THE SCHOOL, ADDITION OF OUTLETS TO EACH CLASSROOM AND UPDATING OF OVERALL SCHOOL WIRING SYSTEM.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		307	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		310C	C
44.01.		LUNALILO ELEMENTARY SCHOOL, OAHU			
		EQUIPMENT FOR A PLAYGROUND- REPLACEMENT OF OLD EQUIPMENT AND SOFT SURFACING; ADDITION OF EQUIPMENT FOR PRESCHOOL USE.			
		EQUIPMENT			110
		TOTAL FUNDING EDN		C	110C
44.02.		LUNALILO ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR OUTDOOR LEARNING PAVILION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			64
		TOTAL FUNDING EDN		C	65C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
45.		MAEMAE ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE RENOVATION AND EXPANSION OF BASKETBALL COURTS, INCLUDING THE ADDITION OF A COVERED SHELTER AND SECURITY.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		1,497	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		1,500C	C
45.01.		MAEMAE ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A CAMPUS ELECTRICAL UPGRADE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			1,497
		EQUIPMENT			1
		TOTAL FUNDING EDN		C	1,500C
45.02.		MAEMAE ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF FIELD TURF IN THE COURTYARD AREA.			
		DESIGN			1
		CONSTRUCTION			499
		TOTAL FUNDING EDN		C	500C
46.		MAKAKILO ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR COMPLIANCE WITH THE AMERICANS WITH DISABILITY ACT TRANSITION ACCESSIBILITY.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		1,043	
		TOTAL FUNDING EDN		1,045C	C
47.		MAKAWAO ELEMENTARY SCHOOL, MAUI			
		DESIGN AND CONSTRUCTION OF COVERED PLAY COURT.			
		DESIGN		1	
		CONSTRUCTION		1,999	
		TOTAL FUNDING EDN		2,000C	C
48.		MANOA ELEMENTARY SCHOOL, OAHU			
		PLANS AND CONSTRUCTION FOR PLAYGROUND IMPROVEMENTS AND UPGRADES.			
		PLANS		1	
		CONSTRUCTION		999	
		TOTAL FUNDING EDN		1,000C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
49.		MAUI HIGH SCHOOL, MAUI CONSTRUCTION FOR WEIGHT TRAINING AND WRESTLING ROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION		2,700	
		TOTAL FUNDING EDN		2,700 C	C
50.		MAUI HIGH SCHOOL, MAUI CONSTRUCTION TO RENOVATE AND EXPAND THE BAND/CHOIR BUILDING INCLUDING ADDITIONAL STORAGE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION		2,000	1,950
		TOTAL FUNDING EDN		2,000 C	1,950 C
51.		MAUI HIGH SCHOOL, MAUI DESIGN AND CONSTRUCTION TO REPLACE AND EXPAND THE GYMNASIUM FLOOR TO FACILITATE CROSS PLAY.			
		DESIGN		1	
		CONSTRUCTION		214	
		TOTAL FUNDING EDN		215 C	C
51.01.		MAUKA LANI ELEMENTARY SCHOOL, OAHU DESIGN AND CONSTRUCTION FOR ACCESSIBLE RAMP; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			1,044
		TOTAL FUNDING EDN		C	1,045 C
52.		MAYOR JOSEPH FERN ELEMENTARY SCHOOL, OAHU CONSTRUCTION FOR COVERED WALKWAY AND HIGH FENCING FROM BUILDING B TO THE SIDE OF THE CAFETERIA.			
		CONSTRUCTION		136	
		TOTAL FUNDING EDN		136 C	C
52.01.		MAYOR JOSEPH FERN ELEMENTARY SCHOOL, OAHU CONSTRUCTION TO ERECT A FENCE AND GATE ALONG BUILDING B (FRONT OF THE BUILDING).			
		CONSTRUCTION			20
		TOTAL FUNDING EDN		C	20 C
52.02.		MCKINLEY HIGH SCHOOL, OAHU DESIGN, CONSTRUCTION AND EQUIPMENT FOR BLEACHERS AND RELATED SITE IMPROVEMENTS FOR THE ATHLETIC FIELD.			
		DESIGN			1
		CONSTRUCTION			498

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		EQUIPMENT			1
		TOTAL FUNDING	EDN	C	500C
52.03.		MILILANI HIGH SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR ACCESS TO PARKING LOT AND ADA PEDESTRIAN ACCESS RAMP TO THE PARKING LOT FROM THE STREET TO REDUCE TRAFFIC HAZARDS.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			1,997
		EQUIPMENT			1
		TOTAL FUNDING	EDN	C	2,000C
53.		MILILANI MIDDLE SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A FIFTEEN CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			1
		DESIGN			11,498
		CONSTRUCTION			1
		TOTAL FUNDING	EDN	C	11,500C
54.		MILILANI UKA ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION TO COMPLETE A SCHOOL-WIDE ELECTRICAL UPGRADE.			
		DESIGN		1	
		CONSTRUCTION		499	
		TOTAL FUNDING	EDN	500C	C
54.01.		MILILANI UKA ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR EROSION CONTROL, DRAINAGE IMPROVEMENT, AND FIRE LANE PAVEMENT LOCATED AT THE BACK OF THE SCHOOL.			
		DESIGN			1
		CONSTRUCTION			759
		TOTAL FUNDING	EDN	C	760C
54.02.		MOANALUA ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR NEW AND/OR RENOVATION OF EXISTING RESTROOMS, INCLUDING LIBRARY AND BUILDING C; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			50
		DESIGN			50
		CONSTRUCTION			250
		TOTAL FUNDING	EDN	C	350C

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## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
55.		MOANALUA HIGH SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR SECOND PHASE OF PERFORMING ARTS CENTER.			
		DESIGN		1	1
		CONSTRUCTION		9,898	9,898
		EQUIPMENT		1	1
		TOTAL FUNDING EDN		9,900 C	9,900 C
56.		MOLOKAI HIGH SCHOOL, MOLOKAI			
		PLANS, DESIGN AND CONSTRUCTION FOR RENOVATION OF THE GYM/EMERGENCY SHELTER, AND EQUIPMENT.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		3,498	
		TOTAL FUNDING EDN		3,500 C	C
57.		MOUNTAIN VIEW ELEMENTARY SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION FOR CAMPUS DRAINAGE AND COVERED WALKWAY.			
		DESIGN			1
		CONSTRUCTION		230	504
		TOTAL FUNDING EDN		230 C	505 C
57.01.		NAALEHU ELEMENTARY SCHOOL, HAWAII			
		CONSTRUCTION TO ADDRESS REPAIR AND MAINTENANCE CAMPUS-WIDE, INCLUDING REPAIRING AND RESURFACING WOOD HALLWAYS; IMPROVING DRAINAGE; CONSTRUCTING A WHEELCHAIR LIFT; REPLACING GUTTERS, DOWNSPOUTS, AND BASKETBALL POLES AND HOOPS.			
		CONSTRUCTION			290
		TOTAL FUNDING EDN		C	290 C
57.02.		NEW SECONDARY SCHOOL IN KAPOLEI, OAHU			
		PLANS FOR A NEW SECONDARY SCHOOL IN KAPOLEI.			
		PLANS			1
		TOTAL FUNDING EDN		C	1 C
58.		NEW ELEMENTARY SCHOOL IN KAKAAKO, OAHU			
		DESIGN FOR A NEW ELEMENTARY SCHOOL IN THE KAKAAKO AREA.			
		DESIGN		1	
		TOTAL FUNDING EDN		1 C	C
58.01.		NIU VALLEY MIDDLE SCHOOL, OAHU			
		CONSTRUCTION AND EQUIPMENT FOR WORLD LANGUAGES CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		CONSTRUCTION			3,324
		EQUIPMENT			1
		TOTAL FUNDING	EDN	C	3,325 C
59.		NOELANI ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR NEW MULTI-PURPOSE/ LIBRARY BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		10	1
		DESIGN		50	1
		CONSTRUCTION		590	6,197
		EQUIPMENT		150	1
		TOTAL FUNDING	EDN	800 C	6,200 C
59.01.		NUUANU ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A PORTABLE CLASSROOM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			297
		EQUIPMENT			1
		TOTAL FUNDING	EDN	C	300 C
59.02.		PAHOA ELEMENTARY SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION FOR COVERED WALKWAYS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			199
		TOTAL FUNDING	EDN	C	200 C
59.03.		PAIA ELEMENTARY SCHOOL, MAUI			
		PLANS AND DESIGN FOR A CLASSROOM BUILDING.			
		PLANS			700
		DESIGN			700
		TOTAL FUNDING	EDN	C	1,400 C
60.		PALISADES ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR PARKING EXPANSION AND RETAINING WALL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		1	
		CONSTRUCTION		1,099	
		TOTAL FUNDING	EDN	1,100 C	C



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
61.		PALOLO ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR NEW PLAYGROUND; SURFACING; REMOVAL OF EXISTING EQUIPMENT.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		97	
		EQUIPMENT		1	
		TOTAL FUNDING	EDN	100C	C
62.		PEARL CITY ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION OF A CAMPUS-WIDE ELECTRICAL UPGRADE.			
		PLANS			1
		DESIGN		1	
		CONSTRUCTION		1,999	749
		TOTAL FUNDING	EDN	2,000C	750C
62.01.		PEARL CITY HIGHLANDS ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR ADDITIONAL PORTABLE CLASSROOMS DUE TO EXPANDING ENROLLMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			1,997
		EQUIPMENT			1
		TOTAL FUNDING	EDN	C	2,000C
63.		PEARL RIDGE ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR AIR CONDITIONING OF BUILDINGS H AND J; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		325	
		CONSTRUCTION		2,155	
		TOTAL FUNDING	EDN	2,480C	C
64.		PUKALANI ELEMENTARY SCHOOL, MAUI			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR LANDSCAPING.			
		DESIGN		1	
		CONSTRUCTION		360	
		EQUIPMENT		1	
		TOTAL FUNDING	EDN	362C	C
65.		RADFORD HIGH SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT TO RENOVATE THE FORMER THEATRE LAB TO A NEW MULTI-MEDIA LAB; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		250	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		CONSTRUCTION		2,749	
		EQUIPMENT		1	
		TOTAL FUNDING	EDN	3,000	C
65.01.		SALT LAKE ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR A STUDENT RESTROOM FACILITY AT PORTABLE 6; PROJECT TO INCLUDE ONE TOILET AND ONE SINK.			
		CONSTRUCTION			1,000
		TOTAL FUNDING	EDN	C	1,000
66.01.		SOLOMON ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR CAMPUS-WIDE IMPROVEMENTS INCLUDING REPLACEMENT FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			35,752
		TOTAL FUNDING	EDN	C	5,149
			EDN	N	30,603
67.		WAIAKEA HIGH SCHOOL, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW BASEBALL BATTING CAGE.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		448	
		TOTAL FUNDING	EDN	450	C
67.01.		WAIAKEA INTERMEDIATE SCHOOL, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR ELECTRICAL SYSTEMS UPGRADES FOR THE ENTIRE CAMPUS.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			250
		TOTAL FUNDING	EDN	C	252
67.02.		WAIAKEA INTERMEDIATE SCHOOL, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR A COVERED WALKWAY FROM THE PHYSICAL EDUCATION BUILDING TO THE COVERED PLAY COURT.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			257
		TOTAL FUNDING	EDN	C	259

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
68.		WAIALUA HIGH AND INTERMEDIATE SCHOOL CAMPUS DRAINAGE IMPROVEMENTS, OAHU			
		DESIGN AND CONSTRUCTION OF A DRAINAGE SYSTEM THAT WILL ADDRESS THE ISSUE OF WATER RUNNING INTO THE Q BUILDING, LOCATED AT THE LOWEST PART OF THE CAMPUS.			
		DESIGN		40	
		CONSTRUCTION		200	
		TOTAL FUNDING	EDN	240 C	C
69.		WAIANAE ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR AN ADMINISTRATION BUILDING.			
		CONSTRUCTION		750	
		TOTAL FUNDING	EDN	750 C	C
70.		WAIANAE HIGH SCHOOL, OAHU			
		CONSTRUCTION TO RENOVATE, EXPAND, AND/OR CONNECT TWO EXISTING SEARIDER PRODUCTIONS MEDIA BUILDINGS (SP AND T). GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION		2,000	
		TOTAL FUNDING	EDN	2,000 C	C
70.01.		WAIANAE HIGH SCHOOL, OAHU			
		CONSTRUCTION AND EQUIPMENT FOR CONNECTION OF BUILDINGS SP & T; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION			8,199
		EQUIPMENT			1
		TOTAL FUNDING	EDN	C	8,200 C
70.02.		WAI'AU ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR AN ELECTRICAL UPGRADE TO REPLACE A TRANSFORMER, SWITCH GEAR, AND FEEDER LINES.			
		DESIGN			1
		CONSTRUCTION			998
		EQUIPMENT			1
		TOTAL FUNDING	EDN	C	1,000 C
71.		WAIHEE ELEMENTARY, MAUI			
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW ADMINISTRATIVE BUILDING.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		898	
		TOTAL FUNDING	EDN	900 C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
71.01.		WAIKELE ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR CAFETERIA RENOVATION AND EXPANSION, INCLUDING ADDITIONAL DINING, STAGE AND SUPPORT FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			4,899
		TOTAL FUNDING EDN		C	4,900C
71.02.		WAIKIKI ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR CONCRETE REPAIR.			
		DESIGN			1
		CONSTRUCTION			199
		TOTAL FUNDING EDN		C	200C
72.		WAIKOLOA ELEMENTARY AND MIDDLE SCHOOL, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION OF A NEW CLASSROOM BUILDING.			
		PLANS		1	
		DESIGN		1,579	
		CONSTRUCTION			11,000
		TOTAL FUNDING EDN		1,580C	11,000C
73.		WAIMALU ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR CAMPUS WIDE ELECTRICAL UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		1	
		CONSTRUCTION		1,749	
		TOTAL FUNDING EDN		1,750C	C
74.		WAIMANALO ELEMENTARY AND INTERMEDIATE SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A NEW SCIENCE, TECHNOLOGY AND MEDIA BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			1
		DESIGN		1	
		CONSTRUCTION		3,348	774
		EQUIPMENT		1	
		TOTAL FUNDING EDN		3,350C	775C
75.		WAIMEA CANYON MIDDLE SCHOOL, KAUAI			
		DESIGN AND CONSTRUCTION FOR COVERED PLAY COURT. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		1	
		CONSTRUCTION		1,499	1,390
		TOTAL FUNDING EDN		1,500C	1,390C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
76.		WAIPAHU ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR CAMPUS WIDE ELECTRICAL UPGRADE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		350	
		CONSTRUCTION		2,149	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		2,500 C	C
77.		WAIPAHU HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR UPGRADES TO CULINARY ACADEMY INCLUDING WALK-IN REFRIGERATOR; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		50	
		CONSTRUCTION		300	
		TOTAL FUNDING EDN		350 C	C
77.01.		WAIPAHU HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR CAMPUS WIDE ELECTRICAL UPGRADE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			5,499
		TOTAL FUNDING EDN		C	5,500 C
78.		WASHINGTON MIDDLE SCHOOL, OAHU			
		CONSTRUCTION AND EQUIPMENT TO RENOVATE THE COMPUTER CLASSROOM IN BUILDING C; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION		254	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		255 C	C
79.		WASHINGTON MIDDLE SCHOOL, OAHU			
		CONSTRUCTION TO CONVERT CLASSROOM TO RECORDING STUDIO.			
		CONSTRUCTION		1,750	
		TOTAL FUNDING EDN		1,750 C	C
79.01.		WASHINGTON MIDDLE SCHOOL, OAHU			
		CONSTRUCTION FOR NEW BAND ROOM AND RENOVATION OF EXISTING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION			500
		TOTAL FUNDING EDN		C	500 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
80.		WEBLING ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR CAMPUS WIDE ELECTRICAL UPGRADES; EQUIPMENT AND APPURTENANCES.			
		DESIGN		1	
		CONSTRUCTION		1,749	
		TOTAL FUNDING EDN		1,750 C	C
80.01.		WEBLING ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR LANDSCAPE IMPROVEMENTS AND LOWER ELEMENTARY PLAYGROUND EQUIPMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			124
		TOTAL FUNDING EDN		C	125 C
80.02.		WILCOX ELEMENTARY SCHOOL, KAUAI			
		CONSTRUCTION TO REPAIR AND IMPROVE RUBBERIZED PADDING OF THE PLAYGROUND FLOOR AND PLAYGROUND EQUIPMENT.			
		CONSTRUCTION			200
		TOTAL FUNDING EDN		C	200 C
80.03.		WILSON ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR NEW PEDESTRIAN WALKWAY TO IMPROVE TRAFFIC SAFETY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			1
		CONSTRUCTION			99
		TOTAL FUNDING EDN		C	100 C
80.04.		NA LEO KAKOO O OAHU, INC., OAHU			
		PLANS AND DESIGN FOR MULTI-PURPOSE ATHLETIC FACILITY FOR ANUENUE SCHOOL. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS			1
		DESIGN			268
		TOTAL FUNDING EDN		C	269 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F

## EDN400 - SCHOOL SUPPORT

81.	14	LUMP SUM CIP - PROJECT POSITIONS, STATEWIDE			
		PLANS FOR COSTS RELATED TO WAGES AND FRINGE BENEFITS FOR PERMANENT, PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE DEPARTMENT OF EDUCATION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS.			
		PLANS		6,500	4,349
		TOTAL FUNDING	EDN	6,500 C	C
			EDN	A	4,349 A

## EDN600 - CHARTER SCHOOLS

82.		FRIENDS OF KONA PACIFIC PUBLIC CHARTER SCHOOL, HAWAII			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR COMMUNITY FOOD KITCHEN FOR FRIENDS OF KONA PACIFIC PUBLIC CHARTER SCHOOL. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		4	
		DESIGN		60	
		CONSTRUCTION		836	
		EQUIPMENT		300	
		TOTAL FUNDING	EDN	1,200 C	C
83.		SUPPORTING THE LANGUAGE OF KAUAI, INC., KAUAI			
		DESIGN AND CONSTRUCTION FOR MULTI-PURPOSE COMMUNITY FACILITIES FOR KAWAIKINI NEW CENTURY PUBLIC CHARTER SCHOOL. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN		1	
		CONSTRUCTION		49	
		TOTAL FUNDING	EDN	50 C	C
84.		FRIENDS OF THE VOLCANO SCHOOL OF ARTS & SCIENCES, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION OF A CERTIFIED COMMERCIAL KITCHEN. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		283	
		TOTAL FUNDING	EDN	285 C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
84.01.		LAUPAHOEHOE COMMUNITY PUBLIC CHARTER SCHOOL, HAWAII			
		CONSTRUCTION AND EQUIPMENT FOR EXPANSION OF THE SCHOOL'S LEARNING ENVIRONMENT.			
		CONSTRUCTION			800
		EQUIPMENT			30
		TOTAL FUNDING	EDN	C	830 C
84.02.		HOOULU LAHUI, HAWAII			
		CONSTRUCTION FOR COMMERCIAL KITCHEN IN PUNA. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			535
		TOTAL FUNDING	AGS	C	535 C
<b>EDN407 - PUBLIC LIBRARIES</b>					
85.	76	HEALTH AND SAFETY, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR HEALTH, SAFETY, ACCESSIBILITY AND OTHER CODE REQUIREMENTS. PROJECTS MAY INCLUDE, BUT NOT LIMITED TO, THE REMOVAL OF HAZARDOUS MATERIALS, RENOVATIONS FOR LIBRARY PATRONS AND EMPLOYEES, ENVIRONMENTAL CONTROLS, FIRE PROTECTION, IMPROVEMENTS TO BUILDINGS AND GROUNDS, AND OTHERS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			400
		DESIGN		400	1,000
		CONSTRUCTION		2,099	2,599
		EQUIPMENT		1	1
		TOTAL FUNDING	AGS	2,500 C	4,000 C
85.01.	77	AMERICANS WITH DISABILITIES ACT PLANNING AND DESIGN STUDY, STATEWIDE			
		PLANS AND DESIGN FOR AMERICANS WITH DISABILITIES ACT PROJECTS FOR ALL PUBLIC LIBRARIES, STATEWIDE.			
		PLANS			100
		DESIGN			150
		TOTAL FUNDING	AGS	C	250 C
85.02.	87	RETROCOMMISSIONING, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR RETROCOMMISSIONING REQUIREMENTS PER ACT 155, SLH 2009 FOR ALL PUBLIC LIBRARIES, STATEWIDE.			
		PLANS			200
		DESIGN			300
		CONSTRUCTION			500
		TOTAL FUNDING	AGS	C	1,000 C



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
85.03.		MOLOKAI PUBLIC LIBRARY, MOLOKAI			
		PLANS, DESIGN AND CONSTRUCTION TO EXPAND THE EXISTING LIBRARY FACILITY.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			4,698
		TOTAL FUNDING	AGS	C	4,700 C
85.04.		AINA HAINA PUBLIC LIBRARY, OAHU			
		DESIGN AND CONSTRUCTION OF AMERICANS WITH DISABILITY ACT COMPLIANT PUBLIC RESTROOMS.			
		DESIGN			1
		CONSTRUCTION			99
		TOTAL FUNDING	AGS	C	100 C
85.05.		NEW MAKIKI PUBLIC LIBRARY, OAHU			
		DESIGN FOR A NEW PUBLIC LIBRARY, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.			
		DESIGN			1,000
		TOTAL FUNDING	AGS	C	1,000 C
DEF114 - HAWAII NATIONAL GUARD YOUTH CHALLENGE ACADEMY					
86.	P99035	YOUTH CHALLENGE ACADEMY UPGRADE AND IMPROVEMENTS, KEAUKAHA MILITARY RESERVATION, HAWAII			
		DESIGN AND CONSTRUCTION FOR RENOVATION TO THE EXISTING ARMORY AT KEAUKAHA MILITARY RESERVATION FOR ADMIN., CLASSROOMS, RESTROOMS, STORAGE, MULTI-PURPOSE/DINING AREA AND OTHER FACILITY AND INFRASTRUCTURE IMPROVEMENTS.			
		DESIGN		150	
		CONSTRUCTION		1,525	
		TOTAL FUNDING	DEF	1,675 C	C
86.01.	YC1701	YCA B1786 AND B1787 RAILING REPLACEMENT AND OTHER IMPROVEMENTS, KALAELOA, OAHU			
		DESIGN AND CONSTRUCTION FOR THE REPLACEMENT OF BALCONY AND STAIRWAY GUARDRAILS AT B1786 AND B1787, PERFORMANCE OF A BUILDING ASSESSMENT, AND RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN			117
		CONSTRUCTION			271
		TOTAL FUNDING	AGS	C	138 C
			AGS	P	250 P

## CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)			
CAPITAL PROJECT		EXPENDING AGENCY	FISCAL M	FISCAL M		
ITEM NO.	PROJECT NO.		YEAR O	YEAR O		
TITLE			2015-2016 F	2016-2017 F		
UOH100 - UNIVERSITY OF HAWAII, MANOA						
87.	UHM, MARINE CENTER RELOCATION, OAHU					
	DESIGN AND CONSTRUCTION FOR THE RELOCATION OF THE UNIVERSITY OF HAWAII MARINE CENTER FROM PIERS 43-45, BY IMPROVING FACILITIES AT PIERS 34-35 AND SAND ISLAND. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, NEW FACILITIES, RENOVATION OF EXISTING FACILITIES, EQUIPMENT AND APPURTENANCES, AND ALL PROJECT COSTS.					
	DESIGN		800			
	CONSTRUCTION		5,200			
	TOTAL FUNDING	UOH	6,000	C		
88.	UHM, SOFTBALL STADIUM, OAHU					
	PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR RENOVATIONS, UPGRADES, AND IMPROVEMENTS TO THE SOFTBALL STADIUM AND FIELD. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, INFRASTRUCTURE, EQUIPMENT AND APPURTENANCES, AND ALL RELATED PROJECT COSTS.					
	PLANS		25			
	DESIGN		375			
	CONSTRUCTION		2,250			
	EQUIPMENT		300			
	TOTAL FUNDING	UOH	2,950	C		
88.01.	UHM, LUMP SUM, ATHLETIC DEPARTMENT, OAHU					
	PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE RENOVATION OF CURRENT FACILITIES.					
	PLANS					1
	DESIGN					1
	CONSTRUCTION					12,997
	EQUIPMENT					1
	TOTAL FUNDING	UOH		C		13,000
88.02.	UHM, WARRIOR RECREATION CENTER, OAHU					
	CONSTRUCTION FOR THE REPAIR OF THE WARRIOR RECREATION CENTER.					
	CONSTRUCTION					1,000
	TOTAL FUNDING	UOH		C		1,000

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O	YEAR O
				2015-2016 F	2016-2017 F

## UOH110 - UNIVERSITY OF HAWAII, JOHN A. BURNS SCHOOL OF MEDICINE

88.03. JOHN A. BURNS SCHOOL OF MEDICINE, RENOVATIONS, REPAIRS AND IMPROVEMENTS, OAHU

PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR RENOVATIONS, REPAIRS, AND IMPROVEMENTS TO THE JOHN A. BURNS SCHOOL OF MEDICINE (JABSOM). PROJECT TO INCLUDE IMPROVEMENTS FOR HEALTH, SAFETY AND CODE REQUIREMENTS, CAPITAL RENEWAL, REDUCTION OF MAINTENANCE BACKLOG, MAJOR AND MINOR RENOVATIONS, MODERNIZATION OF FACILITIES, AND OTHER REPAIRS AND PROJECT COSTS TO UPGRADE THE FACILITY AT JABSOM.

PLANS			1
DESIGN			1
CONSTRUCTION			5,747
EQUIPMENT			1
TOTAL FUNDING	UOH	B	5,750B

## UOH700 - UNIVERSITY OF HAWAII, WEST OAHU

89. UNIVERSITY OF HAWAII - WEST OAHU ADMINISTRATION AND ALLIED HEALTH FACILITY, OAHU

DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE ALLIED HEALTH AND ADMINISTRATION BUILDING. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES, AND ALL PROJECT RELATED COSTS.

DESIGN			6,998
CONSTRUCTION			1
EQUIPMENT			1
TOTAL FUNDING	UOH		7,000C
			C

89.01. UHWO, EB-5 LOAN REPAYMENT, OAHU

CONSTRUCTION FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON EB-5 LOAN ASSOCIATED WITH THE GROUND AND SITE IMPROVEMENTS, INFRASTRUCTURE, EQUIPMENT AND CONSTRUCTION OF UNIVERSITY OF HAWAII - WEST OAHU CAMPUS.

CONSTRUCTION			17,000
TOTAL FUNDING	UOH		17,000C
			C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O	YEAR O
				2015-2016 F	2016-2017 F
89.02.		UHWO, NEW CREATIVE MEDIA FACILITY, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE NEW SCIENCE, TECHNOLOGY AND CREATIVE MEDIA FACILITY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES AND ALL PROJECT RELATED COSTS.			
		DESIGN			1
		CONSTRUCTION			34,998
		EQUIPMENT			1
		TOTAL FUNDING	BED	C	35,000 C

## UOH800 - UNIVERSITY OF HAWAII, COMMUNITY COLLEGES

90.	CAPITAL IMPROVEMENT PROGRAM PROJECTS, STATEWIDE						
	PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR MINOR CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR CAMPUS FACILITIES WITHIN THE UNIVERSITY OF HAWAII, COMMUNITY COLLEGE SYSTEM.						
		PLANS				1	
		DESIGN				1	
		CONSTRUCTION			9,997		
		EQUIPMENT			1		
		TOTAL FUNDING	UOH		10,000	C	C
91.	KAPIOLANI COMMUNITY COLLEGE CULINARY INSTITUTE OF THE PACIFIC, OAHU						
	PLANS AND DESIGN FOR PHASE II OF THE CULINARY INSTITUTE OF THE PACIFIC FACILITY.						
		PLANS				1	
		DESIGN			999		
		TOTAL FUNDING	UOH		1,000	C	C
91.01.	KAPIOLANI COMMUNITY COLLEGE, OAHU						
	DESIGN AND CONSTRUCTION FOR KOKIO BUILDING REPAIR.						
		DESIGN				1	
		CONSTRUCTION				654	
		TOTAL FUNDING	UOH		C	655	C
91.02.	KAPIOLANI COMMUNITY COLLEGE, OAHU						
	CONSTRUCTION FOR NAO BUILDING REPAIR/REPLACE ROOF.						
		CONSTRUCTION				750	
		TOTAL FUNDING	UOH		C	750	C
91.03.	HONOLULU COMMUNITY COLLEGE, PARKING LOT, OAHU						
	PLANS, DESIGN AND CONSTRUCTION THAT WILL INCLUDE THE SIDEWALK AND DRAINAGE IMPROVEMENTS ALONG KOKEA ST. UNTIL THE HART STATION LIMITS.						

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		PLANS			1
		DESIGN			1
		CONSTRUCTION			4,318
		TOTAL FUNDING	UOH	C	4,320 C
91.04.		HONOLULU COMMUNITY COLLEGE, HIGH TECHNOLOGY WORKFORCE DEVELOPMENT CENTER, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A COMMUNITY TECHNOLOGY WORKFORCE DEVELOPMENT CENTER.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			1,097
		EQUIPMENT			1
		TOTAL FUNDING	UOH	C	1,100 C
92.		HAWAII COMMUNITY COLLEGE, HAWAII			
		CONSTRUCTION FOR PORTABLE TRAILERS.			
		CONSTRUCTION		1,500	
		TOTAL FUNDING	UOH	1,500 C	C
92.01.		HAWAII COMMUNITY COLLEGE, NORTH HAWAII EDUCATION AND RESEARCH CENTER, HAWAII			
		CONSTRUCTION FOR THE RENOVATION AND RETROFITTING OF FORMER HOSPITAL WING INTO KITCHEN AND GENERAL CLASSROOMS.			
		CONSTRUCTION			9,000
		TOTAL FUNDING	UOH	C	9,000 C
92.02.		HAWAII COMMUNITY COLLEGE AT PALAMANUI, HAWAII			
		PLANS, CONSTRUCTION AND EQUIPMENT TO CREATE ADDITIONAL OFFICE SPACE AND STORAGE.			
		PLANS			1
		CONSTRUCTION			298
		EQUIPMENT			1
		TOTAL FUNDING	UOH	C	300 C
92.03.		UH MAUI COLLEGE, MAUI FOOD INNOVATION CENTER, MAUI			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR MAUI FOOD INNOVATION CENTER.			
		DESIGN			1
		CONSTRUCTION			6,998
		EQUIPMENT			1
		TOTAL FUNDING	UOH	C	7,000 C
93.		KAUAI COMMUNITY COLLEGE, KAUAI			
		DESIGN, CONSTRUCTION AND EQUIPMENT TO PROVIDE PHOTOVOLTAIC POWER AT KAUAI COMMUNITY COLLEGE.			
		DESIGN		1	
		CONSTRUCTION		2,498	
		EQUIPMENT		1	
		TOTAL FUNDING	UOH	2,500 C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
93.01.		KAU, CULINARY ARTS PROGRAM, KAUAI			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENTS FOR KAUAI COMMUNITY COLLEGE'S CULINARY ARTS PROGRAM PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, DEVELOPMENT OF AN UNDERGROUND OVEN, EQUIPMENT AND APPURTENANCES, AND ALL PROJECT RELATED COSTS.			
		DESIGN			1
		CONSTRUCTION			1,998
		EQUIPMENT			1
		TOTAL FUNDING	UOH	C	2,000 C
93.02.	555	CCS, MINOR CIP FOR THE COMMUNITY COLLEGES, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR MINOR CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR CAMPUS FACILITIES WITHIN THE UNIVERSITY OF HAWAII, COMMUNITY COLLEGE SYSTEM.			
		DESIGN			575
		CONSTRUCTION			9,425
		TOTAL FUNDING	UOH	C	10,000 C
93.03.		CAPITAL RENEWAL AND DEFERRED MAINTENANCE, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENTS TO UNIVERSITY OF HAWAII FACILITIES. PROJECTS TO INCLUDE CAPITAL RENEWAL, REDUCTION OF MAINTENANCE BACKLOG, MAJOR AND MINOR RENOVATIONS, MODERNIZATION OF FACILITIES, RE-ROOFING, MECHANICAL AND ELECTRICAL SYSTEMS, RESURFACING, REPAINTING, AND OTHER REPAIRS AND PROJECT COSTS TO UPGRADE FACILITIES AT ALL UNIVERSITY CAMPUSES.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			14,997
		EQUIPMENT			1
		TOTAL FUNDING	UOH	C	15,000 C

## UOH900 - UNIVERSITY OF HAWAII, SYSTEMWIDE SUPPORT

94.	536	SYS - LUMP SUM CIP FOR HIGHER EDUCATION, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR DEVELOPMENT OF AND IMPROVEMENTS TO GROUNDS, INFRASTRUCTURE, EXISTING FACILITIES, TEMPORARY FACILITIES, NEW FACILITIES, EQUIPMENT AND APPURTENANCES, AND OTHER RELATED PROJECT COSTS.			

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		PLANS		1	
		LAND		1	
		DESIGN		1	
		CONSTRUCTION		24,426	
		EQUIPMENT		1	
		TOTAL FUNDING	UOH	24,430 C	
95.	541	SYS, UNIVERSITY OF HAWAII PROJECT ADJUSTMENT FUND, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE ESTABLISHMENT OF A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		1	
		EQUIPMENT		1	
		TOTAL FUNDING	UOH	4 C	C
95.01.	541CR2	SYS, CAPITAL RENEWAL AND DEFERRED MAINTENANCE, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENTS TO UNIVERSITY OF HAWAII FACILITIES. PROJECTS TO INCLUDE CAPITAL RENEWAL, REDUCTION OF MAINTENANCE BACKLOG, MAJOR AND MINOR RENOVATIONS, MODERNIZATION OF FACILITIES, RE-ROOFING, MECHANICAL AND ELECTRICAL SYSTEMS, RESURFACING, REPAINTING, AND OTHER REPAIRS AND PROJECT COSTS TO UPGRADE FACILITIES AT ALL UNIVERSITY CAMPUSES.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			78,622
		EQUIPMENT			1
		TOTAL FUNDING	UOH	C	48,625 C
			UOH	E	30,000 E
95.02.		SYS, LIFE SCIENCES BUILDING, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE LIFE SCIENCES BUILDING. PROJECT TO INCLUDE THE REPLACEMENT OF SNYDER HALL BUILDING AT A NEW SITE ON UH MANOA CAMPUS, SITE IMPROVEMENTS, DEMOLITION, EQUIPMENT AND APPURTENANCES, AND ALL PROJECT RELATED COSTS.			
		DESIGN		1,000	1,000
		CONSTRUCTION		18,000	33,000
		EQUIPMENT		1,000	1,000
		TOTAL FUNDING		20,000 C	35,000 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F

## H. CULTURE AND RECREATION

## UOH881 - UNIVERSITY OF HAWAII, AQUARIA

1.		WAIKIKI AQUARIUM, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR REPAIRS AND RENOVATIONS TO THE WAIKIKI AQUARIUM FOR PUBLIC HEALTH AND SAFETY.			
		PLANS		25	
		DESIGN		25	
		CONSTRUCTION		400	
		EQUIPMENT		50	
		TOTAL FUNDING	UOH	500C	C

## LNR806 - PARKS ADMINISTRATION AND OPERATION

2.	H65	LUMP SUM CIP IMPROVEMENTS AT STATE PARKS, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION OF STATE PARK IMPROVEMENTS, INCLUDING INFRASTRUCTURE, FACILITY SUPPORT, REGULATORY COMPLIANCE IMPROVEMENTS AND PUBLIC HEALTH AND SAFETY IMPROVEMENTS.			
		PLANS		1	1
		DESIGN		1	1
		CONSTRUCTION		1,998	3,498
		TOTAL FUNDING	LNR	2,000C	3,500C
3.	H66	STATE PARKS HAZARD MITIGATION IMPROVEMENTS, STATEWIDE			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR STATE PARKS HAZARD MITIGATION IMPROVEMENTS, INCLUDING NATURAL, ARBOREAL AND ANTHROPOGENIC HAZARDS.			
		DESIGN		1	1
		CONSTRUCTION		498	498
		EQUIPMENT		1	1
		TOTAL FUNDING	LNR	500C	500C
4.		CENTRAL MAUI REGIONAL PARK, MAUI			
		CONSTRUCTION FOR REGIONAL PARK IN THE AREA OF CENTRAL MAUI; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION		6,000	1,750
		TOTAL FUNDING	LNR	6,000C	1,750C



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
5.		THE FRIENDS OF IOLANI PALACE, OAHU			
		CONSTRUCTION FOR CONTINUING RENOVATIONS, REPAIRS AND RESTORATION FOR IOLANI PALACE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		1,500	
		TOTAL FUNDING LNR		1,500C	C
5.01.		AHA HUI E KALA, KAUAI			
		CONSTRUCTION FOR THE EDUCATION CENTER AT THE LAWAI INTERNATIONAL CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			500
		TOTAL FUNDING LNR		C	500C
LNR801 - OCEAN-BASED RECREATION					
6.	B99	LUMP SUM IMPROVEMENT AT BOATING AND OCEAN RECREATION FACILITIES, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AT VARIOUS BOATING FACILITIES TO INCLUDE PIERS, LOADING DOCKS, UTILITIES, BOAT RAMPS, RESTROOMS, PARKING AREAS, STRUCTURES, DREDGING, SEWER SYSTEMS, BUILDING, FENCING, RENDERING, MOORINGS, LANDSCAPING AND OTHER RELATED WORK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		1	1
		DESIGN		1	1
		CONSTRUCTION		3,123	2,748
		TOTAL FUNDING LNR		2,000C	1,500C
			LNR	1,125N	1,250N
7.		NORTH KAWAIHAE SMALL BOAT HARBOR, HAWAII			
		PLANS AND DESIGN FOR IMPROVEMENTS TO A MARGINAL BREAKWATER AS WELL AS REPAIR AND RENOVATIONS TO REVETMENT, DRAINAGE, ROADWAY, PARKING LOT, UTILITIES, LANDSCAPING AND MISCELLANEOUS IMPROVEMENTS.			
		PLANS		1	
		DESIGN		399	
		TOTAL FUNDING LNR		400C	C
8.		LAHAINA SMALL BOAT HARBOR, MAUI			
		CONSTRUCTION AND EQUIPMENT FOR EMERGENCY DREDGING AND REPLACEMENT OF BUOYS.			
		CONSTRUCTION		2,249	
		EQUIPMENT		1	
		TOTAL FUNDING LNR		2,250C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F
9.		WAIANAE SMALL BOAT HARBOR, OAHU			
		DESIGN AND CONSTRUCTION TO REPLACE PIERS.			
		DESIGN		250	250
		CONSTRUCTION		2,250	2,750
		TOTAL FUNDING LNR		2,500 C	3,000 C
10.		HEEIA PIER, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR INSTALLATION OF A WASTE WATER TREATMENT SYSTEM.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		189	
		EQUIPMENT		1	
		TOTAL FUNDING LNR		192 C	C
10.01.		HEEIA PIER, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR REMEDIATION OF A FAILING CONCRETE APRON AROUND THE MOLE FOR ROW 200.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			3,497
		EQUIPMENT			1
		TOTAL FUNDING LNR		C	3,500 C
11.		WAIAKEA CANAL BOAT RAMP IMPROVEMENTS, KAUAI			
		PLANS AND DESIGN FOR RECONSTRUCTION AND RENOVATION OF TRAILER AND VEHICLE PARKING LOT, BOAT WASH DOWN AREA AND PAVILION; DREDGE OF CANAL; REMOVAL AND REPLACEMENT OF NAVIGATIONAL AIDS.			
		PLANS		1	
		DESIGN		499	
		TOTAL FUNDING LNR		500 C	C
11.01.		POHOIKI BOAT RAMP, HAWAII			
		CONSTRUCTION FOR REPAIR OF BOAT RAMP.			
		CONSTRUCTION			300
		TOTAL FUNDING LNR		C	300 C
11.02.		LIPOA POINT AT HONOLUA BAY, MAUI			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR HEALTH, SAFETY, AND PUBLIC IMPROVEMENTS AT LIPOA POINT.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			497
		EQUIPMENT			1
		TOTAL FUNDING LNR		C	500 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
11.03.		MAALAEA SMALL BOAT HARBOR, MAUI			
		PLANS, DESIGN AND CONSTRUCTION FOR DREDGING.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			3,723
		TOTAL FUNDING LNR		C	3,725C
11.04.		KIHEI BOAT RAMP, MAUI			
		PLANS AND CONSTRUCTION FOR MAINTENANCE DREDGING; PARKING LOT AND ACCESS ROAD IMPROVEMENTS.			
		PLANS			100
		CONSTRUCTION			700
		TOTAL FUNDING LNR		C	800C
11.05.		NA KAMA KAI, OAHU			
		PLANS, LAND ACQUISITION AND DESIGN FOR AN OCEAN SAFETY ACTIVITY CENTER IN POKAI BAY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS			1
		LAND			1
		DESIGN			173
		TOTAL FUNDING LNR		C	175C

## AGS889 - SPECTATOR EVENTS AND SHOWS - ALOHA STADIUM

11.06. Q104	LUMP SUM HEALTH AND SAFETY, ALOHA STADIUM, OAHU				
	PLANS, DESIGN AND CONSTRUCTION FOR THE MITIGATION/ELIMINATION OF CONDITIONS THAT ARE HAZARDOUS TO HEALTH AND SAFETY, INCLUDING REPAIRS, ALTERATIONS, AND IMPROVEMENTS TO THE ALOHA STADIUM TO MEET CODE, SAFETY, AND/OR OPERATIONAL REQUIREMENTS.				
	PLANS				1
	DESIGN				1
	CONSTRUCTION				9,998
	TOTAL FUNDING AGS			C	10,000C

## I. PUBLIC SAFETY

## PSD404 - WAIAWA CORRECTIONAL FACILITY

0.07.	LUMP SUM CIP, WAIAWA CORRECTIONAL FACILITY, OAHU				
	DESIGN AND CONSTRUCTION OF A NEW DOMESTIC WATER SUPPLY SYSTEM.				
	DESIGN				150
	CONSTRUCTION				3,850
	TOTAL FUNDING AGS			C	4,000C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F

**PSD405 - HAWAII COMMUNITY CORRECTIONAL CENTER**

0.08. 5662 LUMP SUM CIP, HAWAII COMMUNITY CORRECTIONAL CENTER, HAWAII

DESIGN AND CONSTRUCTION OF A NEW SUPPORT BUILDING AND A NEW SECURITY ELECTRONIC AND SECURITY HARDWARE SYSTEM.

DESIGN		750
CONSTRUCTION		5,250
TOTAL FUNDING	AGS	6,000 C

**PSD406 - MAUI COMMUNITY CORRECTIONAL CENTER**

0.09. 5660 LUMP SUM CIP, MAUI COMMUNITY CORRECTIONAL CENTER, MAUI

DESIGN AND CONSTRUCTION OF A NEW FIRE ALARM SYSTEM AND A NEW SECURITY ELECTRONIC AND SECURITY HARDWARE SYSTEM.

DESIGN		75
CONSTRUCTION		2,425
TOTAL FUNDING	AGS	2,500 C

**PSD407 - OAHU COMMUNITY CORRECTIONAL CENTER**

0.10. 5655 LUMP SUM CIP, OAHU COMMUNITY CORRECTIONAL CENTER, OAHU

DESIGN AND CONSTRUCTION OF A NEW FURLOUGH HOUSING AND ASSOCIATED SUPPORT OFFICES AND A NEW SECURITY ELECTRONIC AND SECURITY HARDWARE SYSTEM.

DESIGN		400
CONSTRUCTION		3,600
TOTAL FUNDING	AGS	4,000 C

0.11. OAHU COMMUNITY CORRECTIONAL CENTER, OAHU

PLANS, DESIGN AND CONSTRUCTION FOR GROUNDWORK OF A NEW FACILITY.

PLANS		1
DESIGN		1
CONSTRUCTION		5,398
TOTAL FUNDING	AGS	5,400 C

**PSD408 - KAUAI COMMUNITY CORRECTIONAL CENTER**

0.12. 5663 LUMP SUM CIP, KAUAI COMMUNITY CORRECTIONAL CENTER, KAUAI

DESIGN AND CONSTRUCTION OF A NEW SALLY PORT, A NEW SEGREGATION UNIT AND A NEW SECURITY ELECTRONIC AND SECURITY HARDWARE SYSTEM.

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		DESIGN			80
		CONSTRUCTION			920
		TOTAL FUNDING	AGS	C	1,000 C

## PSD409 - WOMEN'S COMMUNITY CORRECTIONAL CENTER

0.13. 5664 LUMP SUM CIP, WOMEN'S COMMUNITY CORRECTIONAL CENTER, OAHU

DESIGN AND CONSTRUCTION OF A NEW CONSOLIDATED FEMALE HOUSING AND ASSOCIATED SUPPORT OFFICES AND A NEW SECURITY ELECTRONIC AND SECURITY HARDWARE SYSTEM.

DESIGN		500
CONSTRUCTION		3,500
TOTAL FUNDING	AGS	C
		4,000 C

## PSD900 - GENERAL ADMINISTRATION

1. P20150 PSD GENERAL ADMINISTRATION PSD LUMP SUM CIP, STATEWIDE

PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION OF VARIOUS RENOVATIONS, ALTERATIONS AND OTHER CAPITAL IMPROVEMENTS TO BUILDINGS, GROUNDS, ON AND OFF-SITE UTILITIES AND INFRASTRUCTURE.

PLANS	1	1
LAND	1	1
DESIGN	1	1
CONSTRUCTION	8,497	12,497
TOTAL FUNDING	AGS	C
	8,500 C	12,500 C

1.01. 2017-6 KAUAI COMMUNITY CORRECTIONAL CENTER-HOUSING AND ASSOCIATED SUPPORT OFFICES/SPACES, KAUAI

DESIGN AND CONSTRUCTION OF A NEW HOUSING AND ASSOCIATED SUPPORT OFFICES AT KAUAI COMMUNITY CORRECTIONAL CENTER.

DESIGN		750
CONSTRUCTION		14,250
TOTAL FUNDING	AGS	C
		15,000 C

1.02. 2017-5 HAWAII COMMUNITY CORRECTIONAL CENTER-HOUSING AND ASSOCIATED SUPPORT OFFICES/SPACES, HAWAII

DESIGN AND CONSTRUCTION OF A NEW HOUSING AND ASSOCIATED SUPPORT OFFICES AT HAWAII COMMUNITY CORRECTIONAL CENTER.

DESIGN		750
CONSTRUCTION		14,250
TOTAL FUNDING	PSD	C
		15,000 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL M YEAR O	FISCAL M YEAR O		
				2015-2016 F	2016-2017 F		
1.03.	2017-4	MAUI COMMUNITY CORRECTIONAL CENTER-HOUSING AND ASSOCIATED SUPPORT OFFICES/SPACES, MAUI					
		DESIGN AND CONSTRUCTION OF A NEW HOUSING AND ASSOCIATED SUPPORT OFFICES AT MAUI COMMUNITY CORRECTIONAL CENTER.					
		DESIGN				1	
		CONSTRUCTION				7,499	
		TOTAL FUNDING	PSD		C	7,500	C
1.04.		MAUI COMMUNITY CORRECTIONAL CENTER-HOUSING AND ASSOCIATED SUPPORT OFFICES/SPACES, MAUI					
		DESIGN AND CONSTRUCTION OF A NEW MAUI COMMUNITY CORRECTIONAL CENTER.					
		DESIGN				1	
		CONSTRUCTION				17,499	
		TOTAL FUNDING	AGS		C	17,500	C

## DEF110 - AMELIORATION OF PHYSICAL DISASTERS

2.	A40	DISASTER WARNING AND COMMUNICATIONS DEVICES, STATEWIDE					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR INCREMENTAL ADDITION, REPLACEMENT AND UPGRADE OF STATE CIVIL DEFENSE WARNING AND COMMUNICATIONS EQUIPMENT, STATEWIDE. THIS WILL EXPAND THE COVERAGE AND RELIABILITY OF THE WARNING AND CONTROL SYSTEM, AS WELL AS MODERNIZE AND ALLEVIATE SIREN COVERAGE GAP AREAS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS				1	
		LAND				1	
		DESIGN				11	3
		CONSTRUCTION				826	243
		EQUIPMENT				281	154
		TOTAL FUNDING	AGS		1,020 C		300 C
			AGS		100 N		100 N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
3.	P98134	UPGRADES AND IMPROVEMENTS TO NATIONAL GUARD READINESS CENTERS AND FACILITIES, STATEWIDE			
		DESIGN AND CONSTRUCTION OF IMPROVEMENTS AND UPGRADES TO NATIONAL GUARD READINESS CENTERS (ARMORIES) AND FACILITIES TO CONFORM TO CURRENT NATIONAL GUARD BUREAU AND U.S. DEPARTMENT OF THE ARMY STANDARDS AND CRITERIA, AND TO MEET HEALTH, SAFETY AND BUILDING CODE REQUIREMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		150	
		CONSTRUCTION		6,326	4,206
		TOTAL FUNDING	DEF	1,906 C	1,600 C
			DEF	4,570 N	2,606 N
4.	DD1601	FORT RUGER B306 AND B306A, HURRICANE HARDENING, OAHU			
		DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO RETROFIT BUILDINGS 306 AND 306A TO RESIST HURRICANE FORCE WINDS, AIR CONDITIONING IMPROVEMENTS, NEW EMERGENCY GENERATOR, AND ASSOCIATED IMPROVEMENTS.			
		DESIGN		185	
		CONSTRUCTION			1,200
		TOTAL FUNDING	AGS	185 C	1,200 C
5.	A0201	RETROFIT PUBLIC BUILDINGS WITH HURRICANE PROTECTIVE MEASURES, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT TO RETROFIT BUILDINGS WITH HURRICANE PROTECTIVE MEASURES TO INCREASE THE NUMBER OF PUBLIC SHELTERS STATEWIDE.			
		PLANS		1	1
		LAND		1	1
		DESIGN		123	60
		CONSTRUCTION		250	125
		EQUIPMENT		625	313
		TOTAL FUNDING	AGS	1,000 C	500 C
6.	DD1502	DIAMOND HEAD CRATER, REPAIR TUNNEL SHOT-CRETE FINISH, OAHU			
		DESIGN AND CONSTRUCTION OF REPAIRS TO THE EXISTING CEMENTITIOUS SHOT-CRETE FINISH ADJACENT TO THE MULE TUNNELS AND VEHICLE TUNNEL ENTRANCES.			
		DESIGN		86	
		CONSTRUCTION			838
		TOTAL FUNDING	AGS	86 C	838 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
7.	A46	HEALTH AND SAFETY REQUIREMENTS FOR BIRKHIMER TUNNEL AND SUPPORT FACILITIES, OAHU			
		DESIGN AND CONSTRUCTION FOR PHASE III OF THE INFRASTRUCTURE IMPROVEMENTS TO THE STATE EMERGENCY OPERATING CENTER, BIRKHIMER TUNNEL AND SUPPORT FACILITIES. PROJECT TO INCLUDE UTILITY SYSTEMS UPGRADE, UNDERGROUND INSTALLATION OF THE UTILITY SYSTEMS, AND REMOVAL OF OVERHEAD UTILITY SYSTEMS.			
		DESIGN		128	
		CONSTRUCTION			562
		TOTAL FUNDING	AGS	128C	562C
8.	ARI601	COMBINED SURFACE MAINTENANCE SHOP 2, KEAUKAHA MILITARY RESERVATION, HAWAII			
		CONSTRUCTION FOR NEW COMBINED SUPPORT MAINTENANCE SHOP COMPLEX FOR HAWAII ARMY NATIONAL GUARD. THE NEW COMBINED SUPPORT MAINTENANCE SHOP WILL INCLUDE OFFICE, PERSONNEL AND WORK AREA SPACE AND MAINTENANCE SHOP WORK BAYS THAT WILL BE DESIGNED AND CONSTRUCTED TO ACHIEVE LEED SILVER. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		1,711	28,501
		TOTAL FUNDING	DEF	1,711N	28,501N
8.01.	CD1601	BIRKHIMER EOC, IMPROVE ROADS AND PARKING LOTS, OAHU			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE BIRKHIMER EMERGENCY OPERATIONS CENTER ROADS AND PARKING LOTS TO INCLUDE NEW ASPHALT PAVEMENT, GUARDRAILS, WHEEL STOPS, DRAINAGE IMPROVEMENTS, STRIPING, SIGNAGE, SECURITY LIGHTING/CAMERA SYSTEM AND OTHER IMPROVEMENTS.			
		DESIGN			60
		CONSTRUCTION			660
		TOTAL FUNDING	DEF	C	720C



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
8.02.	AR1701	KEAUKAHA MILITARY RESERVATION (KMR) BUILDING 621 HIARNG RENOVATION, HAWAII			
		CONSTRUCTION FOR RENOVATION PROJECT INCLUDING ROOF REPLACEMENT AND ROOF STRUCTURE REPAIR, ELECTRICAL SYSTEM, SERVICE AND TRANSFORMER UPGRADE, FIRE ALARM INSTALLATION, FIRE SUPPRESSION SPRINKLER INSTALLATION, RESTROOM AND SHOWER RENOVATION, AND INCIDENTAL WORK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			3,320
		TOTAL FUNDING	DEF	C	1,660C
			DEF	P	1,660P
8.03.		POHAKULOA TRAINING AREA, HAWAII			
		DESIGN AND CONSTRUCTION FOR A WAREHOUSE TO SERVE AS A STORAGE SITE FOR TRAINING LOGISTICS.			
		DESIGN			1
		CONSTRUCTION			799
		TOTAL FUNDING	DEF	C	800C
8.04.		RETROFIT PUBLIC BUILDINGS WITH HURRICANE PROTECTIVE MEASURES, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT TO RETROFIT PUBLIC BUILDINGS WITH HURRICANE PROTECTIVE MEASURES AND INCREASE THE NUMBER OF PUBLIC SHELTERS STATEWIDE.			
		PLANS			1
		LAND			1
		DESIGN			1
		CONSTRUCTION			1,796
		EQUIPMENT			1
		TOTAL FUNDING	DEF	C	1,800C

## K. GOVERNMENT-WIDE SUPPORT

## GOV100 - OFFICE OF THE GOVERNOR

## 1. G01 PROJECT ADJUSTMENT FUND, STATEWIDE

PLANS FOR THE ESTABLISHMENT OF A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT.

PLANS		1	1
TOTAL FUNDING	GOV	1C	1C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F

## BED144 - STATEWIDE PLANNING AND COORDINATION

1.01. 1 STATE AGENCY TRANSIT-ORIENTED DEVELOPMENT, OAHU

PLANS FOR SITE MASTER PLANNING  
FOR STATE LANDS IN TOD AREAS THAT  
HAVE SIGNIFICANT DEVELOPMENT/  
REDEVELOPMENT POTENTIAL, AND  
INFRASTRUCTURE ASSESSMENTS AND  
PLANNING FOR INFRASTRUCTURE  
IMPROVEMENTS IN AREAS WHERE  
MULTIPLE AGENCIES ARE INVOLVED.

PLANS

500

TOTAL FUNDING BED

C

500C

## BUF101 - DEPARTMENTAL ADMINISTRATION AND BUDGET DIVISION

2. 00-02 STATE EDUCATIONAL FACILITIES IMPROVEMENT FUND,  
STATEWIDE

CONSTRUCTION TO AUTHORIZE THE  
TRANSFER OF GENERAL OBLIGATION  
BOND FUNDS AND RE-AUTHORIZATION  
TO THE STATE EDUCATIONAL FACILITIES  
IMPROVEMENT SPECIAL FUND.

CONSTRUCTION

38,113

TOTAL FUNDING BUF

38,113 C

C

## TAX107 - SUPPORTING SERVICES - REVENUE COLLECTION

3. 4 KEELIKOLANI BUILDING RENOVATIONS, OAHU

CONSTRUCTION FOR ACOUSTICAL  
SLIDING PARTITIONS AND  
SOUNDPROOFING FOR ROOMS 217 AND 223  
IN THE KEELIKOLANI BUILDING.

CONSTRUCTION

472

TOTAL FUNDING AGS

472 C

C

## AGS101 - ACCOUNTING SYSTEM DEVELOPMENT AND MAINTENANCE

3.01. W105 GOVERNMENT FINANCIAL SYSTEM, STATEWIDE

EQUIPMENT FOR INTEGRATED FINANCIAL  
APPLICATION WITH GENERAL LEDGER  
AND INTEGRATED APPLICATIONS SUCH  
AS FEDERAL GRANT ACCOUNTING,  
BUDGETING, INVESTMENT ACCOUNTING,  
DISBURSEMENT PROCESSING (INCLUDING  
ELECTRONIC PAYMENT), AND ELECTRONIC  
PROCUREMENT.

EQUIPMENT

15,000

TOTAL FUNDING AGS

C

15,000C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M	FISCAL M
				YEAR O 2015-2016 F	YEAR O 2016-2017 F

## AGS131 - INFORMATION PROCESSING AND COMMUNICATIONS SERVICES

3.02. Q102 LUMP SUM HEALTH AND SAFETY, INFORMATION AND  
COMMUNICATION SERVICES DIVISION, STATEWIDE

PLANS, LAND ACQUISITION, DESIGN,  
CONSTRUCTION AND EQUIPMENT  
FOR REPAIRS, MODERNIZATION,  
AND EXPANSION OF CRITICAL  
COMMUNICATIONS SYSTEMS, INCLUDING  
THE STATEWIDE ANUENUE AND HAWAIIAN  
MICROWAVE SYSTEMS AND LAND MOBILE  
RADIO, STATEWIDE SHARED BLENDED  
RADIO SYSTEM, AND NEW RADIO SITES  
AND TOWERS STATEWIDE.

PLANS		1
LAND		1
DESIGN		400
CONSTRUCTION		4,298
EQUIPMENT		500
TOTAL FUNDING	AGS	C 5,200

## LNR101 - PUBLIC LANDS MANAGEMENT

4. WAIKIKI BEACH MAINTENANCE, OAHU

PLANS, DESIGN AND CONSTRUCTION TO  
NOURISH WAIKIKI BEACH WITH SAND.  
PERIODIC BEACH NOURISHMENT IS  
NEEDED TO KEEP PACE WITH ONGOING  
EROSION. THE PLANNING PHASE OF THE  
PROJECT WILL ALSO INCLUDE ANALYSIS  
OF ENGINEERING ALTERNATIVES FOR  
IMPROVED EROSION.

PLANS		800
DESIGN		200
CONSTRUCTION		6,000
TOTAL FUNDING	LNR	1,000 B
	LNR	R 1,250
	LNR	T 1,750
		3,000 T

5. WAIMEA RIVER CROSSING, KAUAI

CONSTRUCTION TO REPLACE GRADED  
RIVER CROSSING WITH NEW CONCRETE  
FORD CROSSING.

CONSTRUCTION		500
TOTAL FUNDING	LNR	500 C

5.01. E00C ROYAL HAWAIIAN GROIN REPLACEMENT, OAHU

PLANS, DESIGN AND CONSTRUCTION TO  
REPLACE THE ROYAL HAWAIIAN GROIN  
WITH A NEW GROIN STRUCTURE. NEW  
GROIN TO SERVE SAME PURPOSE AS OLD  
GROIN TO RETAIN SAND ON WAIKIKI  
BEACH.

PLANS		1
DESIGN		1

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2015-2016	FISCAL YEAR 2016-2017
		CONSTRUCTION			1,498
		TOTAL FUNDING	LNR	C	750C
			LNR	R	750R
5.02.	J42A	DAM ASSESSMENTS, MAINTENANCE AND REMEDIATION, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR ASSESSMENTS, MAINTENANCE AND REMEDIATION OF DAMS UNDER THE JURISDICTION OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			4,998
		TOTAL FUNDING	LNR	S	5,000S
AGS221 - PUBLIC WORKS - PLANNING, DESIGN, AND CONSTRUCTION					
6.	E109	LUMP SUM MAINTENANCE OF EXISTING FACILITIES, PUBLIC WORKS DIVISION, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENTS AND MAINTENANCE OF PUBLIC FACILITIES AND SITES, STATEWIDE. PROJECTS MAY INCLUDE REPAIRS AND IMPROVEMENTS.			
		PLANS		100	50
		LAND		1	1
		DESIGN		1,100	550
		CONSTRUCTION		10,790	5,395
		EQUIPMENT		9	4
		TOTAL FUNDING	AGS	12,000C	6,000C
7.	Q101	CAPITAL IMPROVEMENT PROGRAM STAFF COSTS, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR COSTS RELATED TO WAGES AND FRINGE BENEFITS FOR PERMANENT, PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES. PROJECTS MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT AND EXEMPT FROM CHAPTER 76 CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS.			
		PLANS		8,508	5,832
		LAND		1	1
		DESIGN		1	1
		CONSTRUCTION		1	1
		EQUIPMENT		1	1
		TOTAL FUNDING	AGS	8,512C	C
			AGS	A	5,836A

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
8.		HONOLULU ACADEMY OF ARTS, OAHU DESIGN AND CONSTRUCTION FOR ART CLASSROOMS, ART EDUCATION, KNOWLEDGE CENTER AND PARKING ADJACENT TO HONOLULU MUSEUM OF ART SCHOOL. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN		1	
		CONSTRUCTION		1,499	
		TOTAL FUNDING		1,500 C	
9.		DIAMOND HEAD THEATRE, OAHU DESIGN AND CONSTRUCTION FOR A NEW THEATRE FOR DIAMOND HEAD THEATRE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN		1	
		CONSTRUCTION		449	
		TOTAL FUNDING AGS		450 C	
10.		GOODWILL INDUSTRIES OF HAWAII, INC., OAHU CONSTRUCTION FOR RENOVATIONS TO HONOLULU CAREER AND LEARNING CENTER FOR GOODWILL. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		1,000	
		TOTAL FUNDING AGS		1,000 C	
11.		HANA HEALTH, HAWAII PLANS AND CONSTRUCTION OF NEW HEALTH FACILITIES. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		CONSTRUCTION		499	
		TOTAL FUNDING AGS		500 C	
12.		HAWAII ACADEMY OF PERFORMING ARTS, OAHU CONSTRUCTION AND EQUIPMENT FOR BATHROOM RENOVATION AT THE ARTS OF MARKS GARAGE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		49	
		EQUIPMENT		1	
		TOTAL FUNDING AGS		50 C	
13.		HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL, HAWAII CONSTRUCTION AND COMPLETION OF MILOLI COMMUNITY ENRICHMENT AND HISTORICAL CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		800	
		TOTAL FUNDING AGS		800 C	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 2015-2016	FISCAL YEAR 2016-2017
14.		HAWAII LAW ENFORCEMENT MEMORIAL FOUNDATION, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR LAW ENFORCEMENT MEMORIAL. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		606	
		TOTAL FUNDING	AGS	608 C	
15.		HAWAII PUBLIC TELEVISION FOUNDATION, OAHU			
		CONSTRUCTION TO FINISH THE FINAL PHASE OF A NEW FACILITY WHICH WILL HOUSE A MAIN TELEVISION STUDIO AND SMALLER INTERVIEW STUDIO, AN EMERGENCY BROADCAST CENTER AND A MEDIA INNOVATION CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		1,000	
		TOTAL FUNDING	AGS	1,000 C	
16.		HERITAGE HALL, INCORPORATED, MAUI			
		CONSTRUCTION FOR HERITAGE HALL INCORPORATED FACILITIES IN PAIA, MAUI. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		300	
		TOTAL FUNDING	AGS	300 C	
17.		KAPOLEI COMMUNITY DEVELOPMENT CORPORATION, OAHU			
		CONSTRUCTION OF THE KAPOLEI COMMUNITY DEVELOPMENT CORPORATION HERITAGE CENTER MULTI-PURPOSE FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		500	
		TOTAL FUNDING	AGS	500 C	
18.		KUALOA-HEEIA ECUMENICAL YOUTH PROJECT, OAHU			
		CONSTRUCTION FOR RENOVATION AND FACILITY IMPROVEMENTS FOR KAHALUU MULTI-PURPOSE COMMUNITY CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		186	
		TOTAL FUNDING	AGS	186 C	
19.		LANAKILA PACIFIC, OAHU			
		CONSTRUCTION FOR RENOVATION LANAKILA PACIFICS CENTRAL FACILITY TO ADDRESS HEALTH AND SAFETY ISSUES. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		200	
		TOTAL FUNDING	AGS	200 C	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
20.		MAUI YOUTH AND FAMILY SERVICES, INC., MAUI CONSTRUCTION FOR NEW ADMINISTRATION FACILITY FOR MAUI YOUTH AND FAMILY SERVICES, INC. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. CONSTRUCTION		525	
		TOTAL FUNDING	AGS	525 C	
21.		OLA KA ILIMA ARTS CENTER LLC, OAHU PLANS, DESIGN AND CONSTRUCTION FOR AN 84 UNIT AFFORDABLE WORKING- FORCE HOUSING DEVELOPMENT IN KAKAAKO. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. PLANS		1	
		DESIGN		1	
		CONSTRUCTION		1,498	
		TOTAL FUNDING	AGS	1,500 C	
22.		PANAWEA COMMUNITY ALLIANCE, HAWAII PLANS AND DESIGN FOR THE KAMOLEAO LAULIMA COMMUNITY RESOURCES CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. PLANS		1	
		DESIGN		149	
		TOTAL FUNDING	AGS	150 C	
23.		REHABILITATION HOSPITAL OF THE PACIFIC, OAHU CONSTRUCTION FOR RENOVATION FOR THE REHABILITATION HOSPITAL OF THE PACIFIC TO ADDRESS HEALTH, SAFETY ISSUES. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. CONSTRUCTION		438	
		TOTAL FUNDING	AGS	438 C	
24.		KAUAI ECONOMIC OPPORTUNITY, INCORPORATED, KAUAI CONSTRUCTION FOR INSTALLATION OF PHOTOVOLTAIC SYSTEMS AT 8 LOCATIONS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. CONSTRUCTION		514	
		TOTAL FUNDING	AGS	514 C	
24.01.	W101	STATE CAPITOL, RENOVATE REFLECTING POOLS, OAHU PLANS TO RENOVATE THE REFLECTING POOLS AND OTHER RELATED IMPROVEMENTS. PLANS			1
		TOTAL FUNDING	AGS	C	1 C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2015-2016 F	2016-2017 F
24.02.	V104	LUMP SUM STATE OFFICE BUILDING REMODELING, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR REMODELING AND UPGRADE OF STATE-OWNED OFFICES, OCCUPIED BY STATE AGENCIES TO ACCOMMODATE AGENCIES OPERATIONAL REQUIREMENTS. PROJECT INCLUDES RENOVATION FOR REORGANIZATION, PROGRAM CHANGES, AND STAFFING CHANGES, AS WELL AS CORRECTION OF INEFFICIENT OFFICE LAYOUTS, ENERGY CONSERVATION, LIGHTING, VENTILATION, PLUMBING, ELECTRICAL, AND DATA/ COMMUNICATIONS SYSTEMS.			
		PLANS			1
		DESIGN			199
		CONSTRUCTION			1,800
		TOTAL FUNDING	AGS	C	2,000 C
24.03.	P104	WASHINGTON PLACE, HEALTH AND SAFETY AND QUEEN'S GALLERY RENOVATION, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO ADDRESS IMMEDIATE HEALTH AND SAFETY NEEDS AT WASHINGTON PLACE. PROJECT INCLUDES LEAD-BASED PAINT ABATEMENT/ENCAPSULATION, BUILDING CODE REQUIREMENTS (STRUCTURAL, ELECTRICAL, PLUMBING, AND VENTILATION), AND ADAAG REQUIREMENTS. ASSOCIATED TO THE WORK IS RENOVATION FOR BUILDING PRESERVATION WITH THE RETENTION OF EXISTING HISTORIC MATERIAL.			
		PLANS			1
		DESIGN			248
		CONSTRUCTION			750
		EQUIPMENT			1
		TOTAL FUNDING	AGS	C	1,000 C
24.04.		BISHOP MUSEUM, OAHU			
		PLANS, CONSTRUCTION AND EQUIPMENT FOR FACILITY IMPROVEMENTS ON VARIOUS BISHOP MUSEUM BUILDINGS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS			1
		CONSTRUCTION			1,198
		EQUIPMENT			1
		TOTAL FUNDING	AGS	C	1,200 C
24.05.		FRIENDS OF WAIPAHU CULTURAL GARDEN PARK, OAHU			
		CONSTRUCTION FOR VARIOUS PLANTATION BUILDINGS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		CONSTRUCTION			200
		TOTAL FUNDING	AGS	C	200C
24.06.		HAWAII HERITAGE CENTER, OAHU			
		DESIGN AND CONSTRUCTION FOR A NEW VISITOR AND EDUCATION CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN			1
		CONSTRUCTION			299
		TOTAL FUNDING	AGS	C	300C
24.07.		HAWAII ISLAND PORTUGUESE CHAMBER OF COMMERCE, HAWAII			
		DESIGN AND CONSTRUCTION FOR EDUCATION FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN			1
		CONSTRUCTION			999
		TOTAL FUNDING	AGS	C	1,000C
24.08.		HAWAII THEATRE CENTER, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR STAGE LIGHTING REPLACEMENT AND UPGRADES. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN			1
		CONSTRUCTION			298
		EQUIPMENT			1
		TOTAL FUNDING	AGS	C	300C
24.09.		HOLUALOA FOUNDATION FOR ART & CULTURE, HAWAII			
		CONSTRUCTION FOR REPAIRS AT THE DONKEY MILL ART CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION			35
		TOTAL FUNDING	AGS	C	35C
24.10.		HOOLA NA PUA, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR RENOVATIONS TO AN EXISTING FACILITY FOR A THERAPEUTIC SPECIAL TREATMENT FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			597
		EQUIPMENT			1
		TOTAL FUNDING	AGS	C	600C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 2015-2016	FISCAL MONTH M O F	FISCAL YEAR 2016-2017	FISCAL MONTH M O F
24.11.	J.	WALTER CAMERON CENTER, INC., MAUI					
		CONSTRUCTION FOR FACILITY REPAIRS, RENOVATIONS AND OTHER RELATED IMPROVEMENTS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION				600	
		TOTAL FUNDING	AGS		C	600	C
24.12.		KUPU, OAHU					
		CONSTRUCTION FOR THE KUPU GREEN JOB TRAINING CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION				750	
		TOTAL FUNDING	AGS		C	750	C
24.13.		MENTAL HEALTH KOKUA, OAHU					
		CONSTRUCTION FOR RENOVATION PROJECT TO DEVELOP HOMELESS HOUSING FIRST. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION				50	
		TOTAL FUNDING	AGS		C	50	C
24.14.		WAHIAWA CENTER FOR COMMUNITY HEALTH, OAHU					
		LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR THE WAHIAWA MEDICAL BUILDING. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		LAND				1	
		DESIGN				1	
		CONSTRUCTION				698	
		TOTAL FUNDING	AGS		C	700	C
SUB201 - CITY AND COUNTY OF HONOLULU							
25.		ROAD IMPROVEMENTS, OAHU					
		PLANS, DESIGN AND CONSTRUCTION FOR ROAD IMPROVEMENTS TO IHE STREET, KEALAKAI STREET, LAKE ROAD, PALA STREET AND PANUI STREET.					
		PLANS				1	
		DESIGN				1,998	
		CONSTRUCTION				1	
		TOTAL FUNDING	CCH			1,000	C
			CCH			1,000	S
26.		ROAD WIDENING IMPROVEMENTS, OAHU					
		PLANS, DESIGN AND CONSTRUCTION FOR ROAD IMPROVEMENTS, WIDENING AND REPAIR TO KALIHI STREET FROM KALAEPAA DRIVE TO 3080 KALIHI STREET.					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		1,998	
		TOTAL FUNDING	CCH	1,000 C	C
			CCH	1,000 S	S
26.01.		ROAD IMPROVEMENTS, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR ROAD IMPROVEMENTS, INCLUDING FLOOD MITIGATION, INSTALLING DRAINAGE INFRASTRUCTURE AND RESURFACING TO KALANI STREET FROM PUUHALE ROAD TO KALIHI STREET.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			1,848
		TOTAL FUNDING	CCH	C	1,850 C
SUB301 - COUNTY OF HAWAII					
27.		SANTOS LANE AND NOHEA ST., G.I. PIPELINE REPLACEMENT, HAWAII			
		DESIGN AND CONSTRUCTION FOR REPLACING GALVANIZED WATER LINES AND SERVICE LATERALS ALONG NOHEA STREET AND SANTOS LANE.			
		DESIGN		1	
		CONSTRUCTION		549	
		TOTAL FUNDING	COH	550 C	C
SUB401 - COUNTY OF MAUI					
28.		MAUI MOTOR SPORTS PARK, MAUI			
		PLANS, DESIGN AND CONSTRUCTION FOR TRACK IMPROVEMENTS.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			1,998
		TOTAL FUNDING	COM	C	2,000 C
SUB501 - COUNTY OF KAUAI					
29.		MOTOROLA 800 MHZ UPGRADE PHASE III, KAUAI			
		CONSTRUCTION AND EQUIPMENT FOR PHASE III OF PUBLIC SAFETY COMMUNICATIONS INFRASTRUCTURE TO ACHIEVE P25 COMPLIANCE.			
		CONSTRUCTION		2,099	
		EQUIPMENT		1	
		TOTAL FUNDING	COK	2,100 C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
30.		SHELTERED BUS STOPS, KAUAI CONSTRUCTION FOR PHASE III, STOPS ALONG STATE HIGHWAYS AND COLLECTOR ROADS, AMERICANS WITH DISABILITIES ACT COMPLIANT PADS, TRANSITION ACCESSIBILITY, LIGHTING, TRASH AND RECYCLING RECEPTACLES AND BICYCLE RACKS.		1,500 1,500 C	
31.		HANAPEPE/ELEELE TRANSMISSION WATERLINE IMPROVEMENT PROJECT, KAUAI PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR 3,000 FOOT, 15 INCH WATER MAIN ALONG KAUMUALII HIGHWAY AND A 3,000 FOOT, 12 INCH WATER MAIN ALONG HANAPEPE ROAD.		350 50 50 4,000 4,450 C	C
32.		MOLOAA WELL AND POST-HARVEST FACILITY PROJECT, KAUAI PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR A WATER WELL, ALTERNATIVE ENERGY TO POWER THE WELL, AND AN ONSITE, POST-HARVEST FACILITY TO COMPLY WITH FOOD SAFETY MODERNIZATION ACT. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.		600 500 200 1,750 3,050 C	C
33.		KAUAI VETERANS CEMETERY PAVILION RENOVATION IN HANAPEPE, KAUAI PLANS, DESIGN AND CONSTRUCTION TO RENOVATE AND UPDATE THE KAUAI VETERANS CEMETERY PAVILION IN HANAPEPE, KAUAI.		1 1 398 400 C	C
33.01.		WATER STORAGE INFRASTRUCTURE, KAUAI CONSTRUCTION OF A 9,000 FOOT, 18 INCH WATER MAIN TRANSMISSION LINE TO INCREASE WATER FLOW CAPACITY FOR FIRE SUPPRESSION FOR ELSIE H. WILCOX ELEMENTARY SCHOOL, WILCOX MEMORIAL HOSPITAL, AND BUSINESSES AND RESIDENTS IN THE AREA.		3,000 2,000 C 1,000 S	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2015-2016 F	FISCAL M YEAR O 2016-2017 F
33.02.		LIHUE/KAPAA WATER SYSTEM HOMESTEADS WELL NO. 4, KAUAI			
		PLANS, DESIGN AND CONSTRUCTION TO DRILL, TEST AND DEVELOP A WELL SOURCE AT THE COUNTY OF KAUAI, DEPARTMENT OF WATER'S ORNELLAS TANK SITE.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			748
		TOTAL FUNDING COK		C	750 C
33.03.		KAUAI VETERANS CEMETERY, KAUAI			
		CONSTRUCTION FOR IMPROVEMENTS FOR STRUCTURAL, ELECTRICAL AND ARCHITECTURAL REPAIRS TO THE COMMUNAL HALL.			
		CONSTRUCTION			700
		TOTAL FUNDING COK		C	700 C
33.04.		ADOLESCENT TREATMENT AND HEALING CENTER, KAUAI			
		PLANS, DESIGN AND CONSTRUCTION FOR AN ADOLESCENT TREATMENT AND HEALING CENTER ON KAUAI.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			4,998
		TOTAL FUNDING COK		C	5,000 C"

SECTION 6. Part V, Act 119, Session Laws of Hawaii 2015, is amended:

(1) By adding a new section to read as follows:

"SECTION 48.1. Provided that of the general obligation bond fund appropriation for the creative industries division (BED105), the sum of \$800,000 or so much thereof as may be necessary for fiscal year 2016-2017 shall not be expended until creative industries division develops a transition plan for the film studio to relocate to west Oahu in proximity to the university and for the Diamond Head studio property to revert to the administrative control of the University of Hawaii; provided further that the transition plan be approved by both the director of the department of business, economic development, and tourism and the chief financial officer of the University of Hawaii systems office."

(2) By adding a new section to read as follows:

"SECTION 48.2. Provided that of the general obligation bond fund appropriation for natural energy laboratory of Hawaii authority (BED146), the sum of \$5,200,000 of so much thereof as may be necessary for fiscal year 2016-2017 shall not be expended until the natural energy laboratory of Hawaii authority works with the University of Hawaii community colleges and Kealahou high school to develop an ocean thermal energy conversion curriculum-to-career pathway program."

(3) By adding a new section to read as follows:

"SECTION 48.3. Provided that of the general obligation bond fund appropriation for Pohakuloa training area, for amelioration of physical disasters (DEF110), the sum of \$800,000 or so much thereof as may be necessary for

fiscal year 2016-2017 shall be awarded to a disabled veterans small business or businesses for the construction of the warehouse at Pohakuloa training area."

(4) By adding a new section to read as follows:

"SECTION 48.4. Provided that of the general obligation bond fund appropriation for amelioration of physical disasters (DEF110), the sum of \$1,800,000 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended for Kapaa middle school."

(5) By repealing section 51:

"SECTION 51. Provided that of the general obligation bond fund appropriation for the University of Hawaii - West Oahu Administration and Allied Health Facility, Oahu (UOH700), no funds shall be expended for the University of Hawaii - West Oahu Satisfaction of EB-5 Loan Repayment made for fiscal year [2015-2016] 2016-2017 unless the University of Hawaii renews its operating lease with Hawaii Technology Development Corporation for use of the Manoa Innovation Center [for a duration of not less than 25 years for \$1 a year]."

(6) By adding a new section to read as follows:

"SECTION 51.1. Provided that of the general obligation bond fund appropriation for the University of Hawaii - West Oahu EB-5 loan repayment, Oahu (UOH700), the sum of \$17,000,000 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended upon the board of regents approval of the transfer of at least 30 acres, but no more than 50 acres to the high technology development corporation, department of business, economic development, and tourism and the state film office by January 1, 2018."

(7) By adding a new section to read as follows:

"SECTION 51.2 Provided that of the general obligation fund appropriation for the University of Hawaii - West Oahu (UOH700) the sum of \$35,000,000 shall be expended for the creative media center; provided further that the department shall provide a report to the legislature regarding the partnership between the University of Hawaii - West Oahu and the department of business, economic development and technology to develop a master plan for the development of an integrated public/private creative media center is completed, initiative focused on west Oahu, which shall include the following:

- (1) A formal agreement between all respective agencies on the responsibilities of each agency;
- (2) A development plan to include expected costs and strategic partnerships between the public and private sectors;
- (3) A plan by the university to assign coordination and leadership for statewide creative media programs at the University of Hawaii - West Oahu; and

provided further that a report on the above requirements be submitted to the 2018 Legislature."

(8) By adding a new section to read as follows:

"SECTION 51.3. Provided that of the general obligation bond fund appropriation for University of Hawaii, systemwide support (UOH900) the sum of \$48,625,000 or so much thereof as may be necessary for fiscal year 2016-2017 shall not be expended for the college of education if the college of education remains at the University of Hawaii at Manoa; provided further that of the \$48,625,000, \$3,000,000 shall not be expended until the university establishes and implements a master plan that seamlessly transitions students and their high school pathway program and community college credits to any four year state funded post-secondary education institution."

(9) By adding a new section to read as follows:

"SECTION 51.4. There is appropriated from the bond fund for the university the sum of \$5,750,000 or so much thereof as may be necessary for fiscal

year 2016-2017 for renovations, repairs, and improvements to the John A. Burns school of medicine.

The sum appropriated represents only the amount derived from interest earnings accrued from the proceeds of University of Hawaii revenue bonds sold for the John A. Burns school of medicine, which remain available in the bond fund for the university. This authorization shall lapse on June 30, 2017."

(10) By amending section 52 to read as follows:

"SECTION 52. Provided that of the general obligation bond fund appropriation for the department of public safety, general administration (PSD900), the sum of \$12,500,000 or so much thereof as may be necessary for fiscal year 2016-2017 shall be expended by the department of accounting and general services on behalf of the<sup>7</sup> department of public safety; provided further that the department of public safety<sup>8</sup> shall submit a progress report to the legislature which includes updates on the following:

- (1) The preliminary design and projected cost of the replacement Oahu Community Correctional Center, which shall be designed to be accredited by the American Correctional Association; and
- (2) Progress towards both a financing plan and issuance of a request for proposals for the acquisition of the facility from a private developer for the State on a turn-key basis; and
- (3)<sup>9</sup> Provided further that the report shall be submitted by February 1, ~~[2016]~~ 2017."

(11) By adding a new section to read as follows:

"SECTION 52.1. Provided that of the general bond fund appropriation for the department of public safety (PSD407), the sum of \$5,400,000 or so much thereof that may be necessary for fiscal year 2016-2017 shall be expended by the department of public safety provided that the governor shall commission a study of possible sites for the construction of a new Oahu community correctional center facility and shall submit the study, including its finds, recommendations and any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2017."

(12) By amending Section 63 to read as follows:

"SECTION 63. Any law to the contrary notwithstanding, the appropriation under Act 134, Session Laws of Hawaii 2013, section 39, as amended and renumbered<sup>10</sup> by Act 122, Session Laws of Hawaii 2014, section 5, in the amounts<sup>11</sup> indicated or balances<sup>12</sup> thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, [is] are hereby lapsed:

<u>"Item No.</u>	<u>Amount (MOF)</u>
<u>A-21.03</u>	<u>\$1,350,000 C</u>
<u>A-21.04</u>	<u>950,000 C</u>
<u>A-31</u>	<u>6,500,000 C</u>
<u>C-1</u>	<u>[\$]16,080,000 X</u>
<u>C-21.02</u>	<u>3,000,000 C</u>
<u>C-67.01</u>	<u>523,000 C</u>
<u>C-79.04</u>	<u>480,000 E</u>
<u>C-109.05</u>	<u>500,000 C</u>
<u>D-8.04</u>	<u>5,950,000 C</u>
<u>G-16.02</u>	<u>2,500,000 C</u>
<u>G-84</u>	<u>10,000,000 C</u>
<u>G-84</u>	<u>20,000,000 E</u>
<u>G-84.01</u>	<u>6,000,000 E</u>
<u>G-84.02</u>	<u>10,000,000 C</u>
<u>G-84.02</u>	<u>1,000,000 R</u>
<u>G-84.02</u>	<u>1,500,000 W</u>

<u>"Item No.</u>	<u>Amount (MOF)</u>
<u>G-90</u>	<u>1,600,000 C</u>
<u>G-91</u>	<u>1,900,000 C</u>
<u>G-94</u>	<u>37,869,050 C</u>
<u>G-94.01</u>	<u>1,800,000 C</u>
<u>H-0.02</u>	<u>1,500,000 C</u>
<u>H-13</u>	<u>1,500,000 C</u>
13	
<u>K-8</u>	<u>300,000 C</u>
<u>K-8</u>	<u>500,000 R</u>
<u>K-16.01</u>	<u>15,000,000 C""</u>

(13) By adding a new section to read as follows:

"SECTION 74.1. Act 134, Session Laws of Hawaii 2013, section 39, as amended and renumbered by Act 122, Session Laws of Hawaii 2014, section 5, is amended by amending Item F 11.01 to read as follows:

"11.01 MODERNIZATION OF PUBLIC ASSISTANCE ELIGIBILITY SYSTEM, STATEWIDE

PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A REPLACEMENT ELIGIBILITY SYSTEM FOR THE PUBLIC ASSISTANCE PROGRAMS. THESE SYSTEMS WILL INTEGRATE WITH THE NEW MEDICAID ELIGIBILITY SYSTEM TO REPLACE THE EXISTING LEGACY PUBLIC ASSISTANCE ELIGIBILITY SYSTEM AND THE CHILD/ADULT WELFARE SYSTEMS THAT HAS OUTLIVED ITS CURRENT UTILITY OF 25 YEARS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

PLANS				1
DESIGN				1
CONSTRUCTION				95,000
EQUIPMENT				6,369
TOTAL FUNDING	HMS		C	41,385 C
	HMS		N	59,986 N""

SECTION 7. Part VI, Act 119, Session Laws of Hawaii 2015, is amended:

(1) By adding a new section to read as follows:

"SECTION 78.1. Provided that the University of Hawaii may issue university revenue bonds for university capital improvement program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds, in a principal amount required to yield the amounts appropriated for the capital improvement program projects, and, if so determined by the university and approved by the governor, in additional amounts deemed necessary by the university to pay interest on the revenue bonds during the estimated construction period of the capital improvement project for which the university revenue bonds are issued to establish, maintain, or increase reserves for the university revenue bonds or university revenue bonds heretofore authorized (whether authorized and issued or authorized and still unissued), and to pay the expenses of issuance of the bonds. The aforementioned university revenue bonds shall be issued pursuant to part VI of chapter 304A, Hawaii Revised Statutes, as amended. The principal of and interest on university revenue bonds, to the extent not paid from the proceeds of the bonds, shall be payable solely from and secured solely by the revenues of the university as defined in section 304A-2671, Hawaii Revised Statutes. The university shall submit a report to the legislature



no later than 30 days before the regular session of 2018 on what revenues of the university, including the name of the fund and the revenue sources of that fund, are used or will be used to pay principal and interest on university revenue bonds from the tuition and fees special fund.”

SECTION 8.<sup>14</sup> Part VII, Act 119, Session Laws of Hawaii 2015, is amended:

(1) By adding a new section to read as follows:

“SECTION 124.1. Provided that if the amount of settlements and judgments approved by the legislature in H.B. No. 2279<sup>15</sup> in the form passed by the legislature, the Claims Bill, exceeds program allocations for fiscal year 2015-2016 or fiscal year 2016-2017, as applicable, for the purposes of meeting such obligations:

- (1) A department, with the approval of the governor, is authorized to utilize allocated savings determined to be available from any other program within the department; and
- (2) Unless otherwise provided by general law, the governor is authorized to transfer funds between allocations of appropriations within a department for the purposes of paying settlements and judgments of a program.”

SECTION 9.<sup>14</sup> MISCELLANEOUS. If any portion of this Act or its application to any person, entity, or circumstance is held to be invalid for any reason, then the legislature declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 10.<sup>14</sup> In the event manifest clerical, typographical or other mechanical errors are found in this Act, the governor is hereby authorized to correct such errors.

SECTION 11.<sup>14</sup> Material to be repealed is bracketed and stricken. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the bracketed material or the underscoring.<sup>16</sup>

SECTION 12.<sup>14</sup> Nothing in this Act shall affect the validity or continuing effectiveness of any provisions of Act 119, Session Laws of Hawaii 2015, not repealed or modified by this Act.

SECTION 13.<sup>14</sup> EFFECTIVE DATE. This Act shall take effect upon its approval.

(Approved June 23, 2016.)

#### Notes

1. Prior to amendment “,” appeared here.
2. Prior to amendment “thereof” appeared here.
3. Prior to amendment “the” appeared here.
4. Prior to amendment “pre-fund” appeared here.
5. Prior to amendment “employer-union” appeared here.
6. So in original.
7. “the” should not be underscored.
8. “of public safety” should be underscored.
9. “(3)” should be underscored.
10. “and renumbered” should be underscored.
11. Prior to amendment “amount” appeared here.
12. Prior to amendment “balance” appeared here.
13. Prior to amendment “K-3 2,340,000C.” appeared here.
14. Section renumbered.
15. HB2279, HD2, SD2, CD1 became Act 63.
16. Edited pursuant to HRS §23G-16.5.

## ACT 125

S.B. NO. 2647

A Bill for an Act Relating to Natural Resources.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the trafficking of animals threatened with extinction continues to grow at an alarming pace, threatening an increasing variety of animal species. The threat of extinction is due in large part to the trafficking of animal parts and products. The National Strategy for Combating Wildlife Trafficking, released in February 2014, recognized the important role that states have in protecting species that are subject to illegal wildlife trade. Federal law regulates the transfer and importation of parts or products made from endangered and threatened animal species, but due to the increasing demand for these products around the world, it is important to align state authority with federal and international laws to appropriately regulate these markets on a local level.

The legislature further finds that the most effective way to discourage illegal trafficking is to eliminate markets and profits. It is in the public interest to protect animal species threatened with extinction by prohibiting within the State, with certain limited exceptions, the sale, offer for sale, purchase, trade, possession with intent to sell, or barter for any part or product of any species of elephant (Elephantidae), mammoth (Mammuthus), rhinoceros (Rhinocerotidae), tiger (Panthera tigris), great ape (Hominoidea), shark and ray (Elasmobranchii), sea turtle (Chelonioidae), walrus (Odobenus rosmarus), narwhal (Monodon monoceros), whale (Cetacea), hippopotamus (Hippopotamus amphibius), monk seal (Neomonachus), lion (Panthera leo), pangolin (Manis), cheetah (Acinonyx jubatus), jaguar (Panthera onca), and leopard (Panthera pardus) identified as threatened with extinction by the Convention on International Trade in Endangered Species and the Endangered Species Act. These animals represent some of the most trafficked species threatened with extinction according to illegal wildlife product seizure data gathered by the World Wildlife Fund-TRAFFIC, International Union for the Conservation of Nature, and other international conservation organizations.

The legislature further finds that in September 2015, the United States and China announced a cooperative effort to take comprehensive action to curb wildlife trafficking, including significant restrictions on the import of ivory as hunting trophies and halting the domestic commercial trade of ivory. As the host of the upcoming International Union for the Conservation of Nature World Conservation Congress with the United States in September 2016, it is important to demonstrate Hawaii's continuing leadership in global conservation challenges such as international wildlife trafficking and endangered species protection.

The purpose of this Act is to improve coordination between state and other government authorities as encouraged in section 183D-8, Hawaii Revised Statutes, and to remove any potential conflicts of law that unintentionally make Hawaii an attractive market for illegal wildlife trafficking as other countries and states pass legislation to protect global populations of endangered species.

SECTION 2. Chapter 183D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§183D- Wildlife trafficking; prohibited.** (a) No person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from the following animal family, genus, or species: elephant (Elephantidae),

rhinoceros (*Rhinocerotidae*), tiger (*Panthera tigris*), great ape (*Hominoidea*), hippopotamus (*Hippopotamus amphibius*), lion (*Panthera leo*), pangolin (*Manis*), cheetah (*Acinonyx jubatus*), jaguar (*Panthera onca*), or leopard (*Panthera pardus*).

(b) Unless otherwise authorized by federal law including the Marine Mammal Protection Act, 16 United States Code, chapter 31, no person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from the following marine family, genus, or species: sea turtle (*Chelonioidae*), monk seal (*Neomonachus*), narwhal (*Monodon monoceros*), whale (*Cetacea*), or walrus (*Odobenus rosmarus*) insofar as the species, subspecies, or distinct population segment is listed:

(1) On appendix I or II of the Convention on International Trade in Endangered Species; or

(2) As endangered or threatened under the Endangered Species Act.

(c) Unless otherwise authorized by federal law including the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. section 1851 et seq.) as amended, no person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from rays and sharks (*Elasmobranchii*) insofar as the species is listed:

(1) On appendix I of the Convention on International Trade in Endangered Species; or

(2) As endangered or threatened under the Endangered Species Act.

(d) No person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from mammoth (*Mammuthus*), although the species is extinct.

(e) To the extent permitted under federal law, none of the prohibitions set forth in this section shall apply if:

(1) The covered animal species part or product is part of a bona fide antique; provided that:

(A) The antique status of such a part or product is established by the owner or seller thereof with historical documentation showing the antique to be not less than one hundred years old;

(B) The covered animal species part or product is less than twenty per cent by volume of such an antique; and

(C) The covered animal species part or product is a fixed component or components of a larger manufactured item and is not, in its current form, the primary source of value of the item;

(2) The distribution of the covered animal species part or product is:

(A) For a bona fide educational or scientific purpose; or

(B) To or from a museum;

(3) The distribution of the covered animal species part or product is to a legal beneficiary of an estate, trust, or other inheritance;

(4) The covered animal species part or product is less than twenty per cent by volume of a gun, knife, or musical instrument, including without limitation string instruments and bows, wind and percussion instruments, and pianos, if the owner or seller provides historical documentation showing the item was manufactured no later than 1975 and the covered animal species part or product is a fixed component or components of a larger manufactured item and is not, in its current form, the primary source of value of the item;

(5) The sale, offer for sale, purchase, trade, possess with intent to sell or barter of the covered animal species part or product is expressly authorized by federal law or permit; or

(6) The activity is authorized under section 183D-6.

(f) There is established a rebuttable presumption of possession with intent to sell a covered animal species part or product when the part or product is possessed by a retail or wholesale establishment or other forum engaged in the business of buying or selling similar items. This rebuttable presumption shall not preclude a finding of intent to sell based on any other evidence that may serve to independently establish such intent.

(g) None of the prohibitions set forth in this section shall apply to traditional cultural practices expressly protected under article XII, section 7, of the state constitution.

(h) For the purposes of this section, "covered animal species part or product" means any item that contains, or is wholly or partially made from, any covered animal species.

(i) The department of land and natural resources may adopt rules pursuant to chapter 91, as needed, to further implement or enforce this section."

SECTION 3. Section 183D-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any person violating section 183D-, 183D-25.5, 183D-26, 183D-27, 183D-32, 183D-62, or 183D-64 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction by a mandatory fine of not less than \$200, or by imprisonment of not more than one year, or both;
- (2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$1,000, or by imprisonment of not more than one year, or both, and all firearms, animal parts, products, or items containing prohibited animal parts or products used in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State; and
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$2,000, or by imprisonment of not more than one year, or both, and all firearms, animal parts, products, or items containing prohibited animal parts or products used in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval; provided that there shall be no enforcement actions pursuant to this Act prior to June 30, 2017.

(Approved June 23, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Water Rights.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171-58, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Disposition of water rights may be made by lease at public auction as provided in this chapter or by permit for temporary use on a month-to-month basis under those conditions which will best serve the interests of the State and subject to a maximum term of one year and other restrictions under the law; provided that ~~[any]~~:

- (1) Where an application has been made for a lease under this section to continue a previously authorized disposition of water rights, a holdover may be authorized annually until the pending application for the disposition of water rights is finally resolved or for a total of three consecutive one-year holdovers, whichever occurs sooner; provided that the total period of the holdover for any applicant shall not exceed three years; provided further that the holdover is consistent with the public trust doctrine;
- (2) Any disposition by lease shall be subject to disapproval by the legislature by two-thirds vote of either the senate or the house of representatives or by majority vote of both in any regular or special session next following the date of disposition; ~~[provided further that after]~~ and
- (3) After a certain land or water use has been authorized by the board subsequent to public hearings and conservation district use application and environmental impact statement approvals, water used in nonpolluting ways, for nonconsumptive purposes because it is returned to the same stream or other body of water from which it was drawn, and essentially not affecting the volume and quality of water or biota in the stream or other body of water, may also be leased by the board with the prior approval of the governor and the prior authorization of the legislature by concurrent resolution.”

SECTION 2. The department of land and natural resources shall prepare and submit annual reports to the legislature no later than twenty days before the convening of each of the regular sessions of 2017, 2018, 2019, and 2020. The reports shall include:

- (1) The status of applications to continue previously-authorized dispositions of water rights;
- (2) Actions taken on the applications during the fiscal period of July 1, 2016, to November 30, 2016, fiscal year 2016-2017, fiscal year 2017-2018, and fiscal year 2018-2019, respectively; and
- (3) Any relevant recommendations for legislative action or appropriation.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval, and shall apply to applications for a lease to continue a previously authorized disposition of water rights that are pending before the board of land and natural resources on the

effective date of this Act or filed with the board of land and natural resources on or after the effective date of this Act, but prior to June 30, 2019; provided that:

- (1) This Act shall be repealed on June 30, 2019, and section 171-58(c), Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act; and
- (2) Any holdovers first applied for under this Act prior to June 30, 2019, may be reauthorized, as provided in section 1 of this Act, beyond June 30, 2019.

(Approved June 27, 2016.)

## ACT 127

S.B. NO. 2561

A Bill for an Act Relating to Rental Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to address rental housing. More specifically, this Act:

- (1) Establishes an affordable rental housing goal; and
- (2) Establishes a special action team on affordable rental housing, led by the director of the office of planning, to make recommendations on actions to promote rental housing.

SECTION 2. For the period from 2015 to 2025, Hawaii will require an additional 64,700 housing units to meet projected long-term housing demands. Of this amount, 22,247 households of all income levels will require rental units.

The need for affordable rental units is particularly acute for households with low incomes. Approximately ninety-three to ninety-five per cent of rental unit tenants have a household income of less than one hundred forty per cent of the median Hawaii income. According to the Affordable Rental Housing Study Update, 2014, prepared for the department of community services, city and county of Honolulu:

The rule of thumb is that renter families generally come from the lower income part of our community, and economists and housing analysts think of this in terms of them making 80% of the area's median income, or AMI, or lower. It bears repeating that those making at or under than [sic] 60% and those at or under 30% of AMI are facing no rental unit availability, meaning crowding up or homelessness.

Relative to what has been supplied, the number of rental units affordable to those making 80% (and 60%, and 50%, and 30% of AMI), the supply/demand imbalance is tremendous, in quantitative terms. During the 10-year period from 2004-2013, just over 4,500 affordable rental units were delivered statewide with government assistance. (Source: HHFDC) To wit, there simply is an insufficient number of them being supplied, either in the affordable, the subsidized or the market-rate rental markets.

The lack of supply leads to higher rents for households of all income levels, leaving all tenants with less disposable income, increasing the personal stress of tenants, reducing tenant quality of life, and exacerbating the population overcrowding and homelessness problems. Without sufficient affordable rental housing, the future social, community, and economic consequences for Hawaii may be dire.

Although many reasons contribute to the lack of affordable rental units for low- and moderate-income households, the primary reason is a poor rate of return for investments in affordable rental housing projects. As the Affordable Rental Housing Study Update, 2014, succinctly states, "Simply put, affordable rental housing is unprofitable, so the market won't address the need by itself." Government regulations that restrict affordable housing development and lengthen the time tenants qualify for affordable rental housing also contribute to the lack of affordable rental housing.

Given these barriers, the legislature finds that the lack of affordable rental housing requires the concentrated attention of state government at the highest level. Thus, the legislature believes that the establishment of an affordable rental housing goal and special action team to make recommendations to achieve the goal are imperative.

**SECTION 3. Goal for affordable rental housing units.** (a) The legislature establishes the goal for state government, by itself or jointly with other parties, to develop or vest the development of at least 22,500 affordable rental housing units, ready for occupancy between January 1, 2017, and December 31, 2026.

- (b) For the purpose of measuring progress toward achieving the goal:
- (1) Fee simple residential units, rental housing units that are not affordable, and units in resort, commercial, industrial, or other uses on or before December 31, 2016, that are subsequently converted to affordable rental units, shall be counted as having been developed between January 1, 2017, and December 31, 2026; and
  - (2) Affordable rental housing units that have all entitlements for construction on or before December 31, 2016, but are completed and ready for occupancy after that date, shall not be counted as having been developed between January 1, 2017, and December 31, 2026.

**SECTION 4. Definitions.** For the purpose of this Act:  
 "Affordable rental housing unit" means a privately-owned residential unit that the owner:

- (1) Has completed the construction, reconstruction, renovation, repair, or acquisition of after December 31, 2016; and
- (2) Pledges to comply and require each manager or successor owner of the unit to comply with the following for a period of at least thirty years:
  - (A) Rent the unit to a family with an annual income of not more than one hundred forty per cent of the area median income for a family of the same size; and
  - (B) Charge a monthly rent, excluding utility expenses, for the unit that does not exceed thirty per cent of the family's monthly income.

The thirty-year period shall be measured from the date of issuance of the certificate of occupancy for the unit or, if no certificate of occupancy was necessary for the unit after December 31, 2016, the date the unit was first rented to a family in accordance with paragraph (2).

"Affordable rental housing unit" includes a residential unit owned by a federal, state, or county agency for the purpose of rental to a low- or moderate-income family, as may be defined by the agency or law, as applicable.

"Area median income" means the most current median family income for an area as estimated and adjusted for family size by the United States Department of Housing and Urban Development.

"Family" includes a family of one individual.

SECTION 5. Special action team on affordable rental housing; establishment, purpose, termination. (a) There is established for administrative purposes within the office of planning a temporary special action team on affordable rental housing.

(b) The special action team is established for the special purpose of recommending actions to increase the supply of rental housing, particularly rental housing affordable to low- and moderate-income families.

(c) The special action team shall terminate on December 31, 2019; provided that the chair and members of the special action team may represent themselves as the chair or a member after December 31, 2019, when testifying or commenting on actions or recommendations of the team.

SECTION 6. Membership. (a) The special action team shall be composed of the following members:

- (1) The director of the office of planning, who shall serve as chair;
- (2) The executive director of the Hawaii housing finance and development corporation;
- (3) A member of the house of representatives, to be appointed by the speaker of the house of representatives;
- (4) A member of the senate, to be appointed by the president of the senate;
- (5) A representative from each county, to be appointed by the mayor of the respective county;
- (6) A member of the public to represent affordable housing advocacy groups, to be appointed by the governor;
- (7) A member of the public to represent non-profit developers with expertise in housing development, to be appointed by the governor; and
- (8) A member of the public to represent for-profit developers with expertise in housing development, to be appointed by the governor.

(b) A special action team member may designate another officer or employee of the member's department or agency or member's representative group to attend one or more meetings in place of the member. The special action team member shall make the designation in writing and submit it to the special action team chair before the meeting that the designee is to attend. The designation may apply to more than one meeting or the entire term of the special action team. The designation may be withdrawn at any time by written notice to the special action team chair.

A designee of a special action team member shall have all rights and privileges of the member while serving as a designee.

(c) The special action team shall regularly hold public meetings without regard to chapter 92, Hawaii Revised Statutes.

(d) Members of the special action team shall receive no additional compensation for service on the team beyond their normal compensation.

Members shall be reimbursed for expenses necessarily incurred for service on the team.

(e) The special action team may elect officers from among its members.

SECTION 7. Duties. (a) The special action team shall recommend to the governor, legislature, and other parties, actions to be taken to achieve the affordable rental housing goal set forth in section 3.

(b) To comply with subsection (a), the special action team shall recommend short- and long-term actions to:



- (1) Increase the supply of rental housing affordable for low- and moderate-income families;
  - (2) Increase the supply of rental housing for the remainder of the resident population;
  - (3) Target rental housing development in transit-oriented development areas as a top priority;
  - (4) Preserve the existing rental housing stock;
  - (5) Enhance the attractiveness of and market for rental housing relative to fee simple housing; and
  - (6) Mitigate community concerns over the development of nearby rental housing projects, particularly affordable public or private rental housing projects for low-income families and individuals.
- (c) The special action team also shall establish performance measures and timelines for the development of affordable rental housing units for the following:

- (1) Families with not more than thirty per cent of the area median income;
- (2) Families with more than thirty per cent, but not more than fifty per cent, of the area median income;
- (3) Families with more than fifty per cent, but not more than sixty per cent, of the area median income;
- (4) Families with more than sixty per cent, but not more than eighty per cent, of the area median income;
- (5) Families with more than eighty per cent, but not more than one hundred per cent, of the area median income;
- (6) Families with more than one hundred per cent, but not more than one hundred twenty per cent, of the area median income; and
- (7) Families with more than one hundred twenty per cent, but not more than one hundred forty per cent, of the area median income.

The special action team shall also recommend the agency that should monitor and periodically report on the achievement of the performance measures and compliance with the timelines.

(d) The special action team shall also address and make recommendations to reconcile the public interests that may compete against and restrict the development of rental housing. The competing public interests shall include the following:

- (1) Regulatory burden associated with developing, managing, and operating subsidized affordable housing projects;
- (2) Preservation of the environment;
- (3) Protection of the quality of life of the surrounding communities;
- (4) Devotion of scarce public resources for mixed-use projects that include fee simple, market-priced housing;
- (5) Reluctance to use more public lands for affordable rental housing development; and
- (6) Preference of most persons for low-density dwelling units.

(e) The special action team shall also develop a ten-year plan that identifies state, county, and private parcels of land that are suitable for affordable housing units. The ten-year plan shall be incorporated into the state housing plan. In identifying parcels of land, the special action team shall consider:

- (1) The estimated number of affordable housing units the parcel of land can sustain;
- (2) What infrastructure challenges there are in developing affordable housing units on the parcel of land; and

- (3) The estimated cost to develop affordable housing units and address the infrastructure challenges on the parcel of land.
- (f) In the performance of its duties, the special action team shall periodically consult with the Hawaii interagency council on homelessness.

SECTION 8. Annual reports. The special action team shall submit reports to the legislature of its findings, recommendations, and progress with the ten-year plan no later than twenty days prior to the convening of the regular sessions of 2017, 2018, and 2019.

SECTION 9. Update to the Hawaii state planning act. The special action team shall submit legislation proposing an update to the Hawaii State Planning Act to include the state housing plan no later than twenty days prior to the convening of the regular session of 2017, in accordance with this Act.

SECTION 10. Appropriation. (a) There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the administration and operation of the special action team on rental housing, including the establishment and filling of one full-time equivalent (1.0 FTE) temporary planner position, which shall be exempt from chapter 76, Hawaii Revised Statutes, and to propose an update to the Hawaii State Planning Act to include the state housing plan, in accordance with this Act.

The sum appropriated shall be expended by the office of planning for the purposes of this Act.

(b) In addition to the appropriation under subsection (a), the office of planning may use other moneys appropriated to the office of planning for the special action team.

SECTION 11. This Act shall take effect upon its approval; provided that section 10 shall take effect on July 1, 2016.

(Approved June 29, 2016.)

## ACT 128

S.B. NO. 2566

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that more affordable rental housing is needed by the people of Hawaii. The rental housing revolving fund is the main source of capital from the State for affordable rental housing projects. Thus, the legislature finds that the rental housing revolving fund should be augmented to enable the development of more affordable rental housing projects.

The legislature further finds that the rental assistance revolving fund has a balance in excess of the immediate needs of the fund. Furthermore, the rental assistance revolving fund is not particularly robust, and the legislature finds that its proceeds should be transferred to the rental housing revolving fund.

The purpose of this Act is to provide capital for the development of affordable rental housing by transferring excess moneys from the rental assistance revolving fund, established pursuant to section 201H-123, Hawaii Revised Statutes, to the rental housing revolving fund, established pursuant to section 201H-202, Hawaii Revised Statutes.

SECTION 2. On July 1, 2016, \$9,500,000 from the rental assistance revolving fund shall be transferred to the rental housing revolving fund.

The legislature finds that the transferred amount is in excess of the immediate needs of the rental assistance revolving fund.

SECTION 3. The director of finance shall effectuate the transfer required by section 2.

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

## ACT 129

S.B. NO. 2833

A Bill for an Act Relating to the Low-Income Housing Tax Credit.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-110.8, Hawaii Revised Statutes, is amended to read as follows:

**“§235-110.8 Low-income housing tax credit.** (a) ~~[Section]~~ As modified herein, section 42 (with respect to low-income housing credit) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this section. A taxpayer owning a qualified low-income building who has been awarded a subaward under section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, shall also be eligible for the credit provided in this section.

(b) Each taxpayer subject to the tax imposed by this chapter, who has filed a net income tax return for a taxable year may claim a low-income housing tax credit against the taxpayer's net income tax liability. The amount of the credit shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed on a timely basis. A credit under this section may be claimed whether or not the taxpayer claims a federal low-income housing tax credit pursuant to section 42 of the Internal Revenue Code.

(c) ~~[The]~~ For any qualified low-income building that receives an allocation prior to January 1, 2017, the amount of the low-income housing tax credit that may be claimed by a taxpayer as provided in subsection (b) shall be fifty per cent of the applicable percentage of the qualified basis of each building located in Hawaii. The applicable percentage shall be calculated as provided in section 42(b) of the Internal Revenue Code.

(d) For any qualified low-income building that receives an allocation after December 31, 2016, the amount of the low-income housing tax credits that may be claimed by a taxpayer as provided in subsection (b) shall be:

- (1) For the first five years, equal to the amount of the federal low-income housing tax credits that have been allocated to the qualified low-income building pursuant to section 42(b) of the Internal Revenue Code by the corporation, provided that, if in any year the aggregate amount of credits under this subsection would be such that it would exceed the amount of state credits allocated by the corporation for the qualified low-income building, the credits allowed for that year shall be limited to such amount necessary to bring the total of such state credits (including the current year state credits)

to the full amount of state credits allocated to the qualified low-income building by the corporation:

- (2) For the sixth year, zero, except that, if, and only if, the amount of credits allowed for the first five years is less than the full amount of state credits allocated by the corporation for the qualified low-income building, an amount necessary to bring the amount of the state credits to the full amount allocated by the corporation for the qualified low-income building; and

- (3) For any remaining years, zero.

~~[(d)]~~ (e) If a subaward under section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, has been issued for a qualified low-income building, the amount of the low-income housing tax credits that may be claimed by a taxpayer as provided in subsection (b) shall be equal to fifty per cent of the amount of the federal low-income housing tax credits that would have been allocated to the qualified low-income building pursuant to section 42(b) of the Internal Revenue Code by the corporation had a subaward not been awarded with respect to the qualified low-income building.

~~[(e)]~~ (f) For the purposes of this section, the determination of:

- (1) Qualified basis and qualified low-income building shall be made under section 42(c);
- (2) Eligible basis shall be made under section 42(d);
- (3) Qualified low-income housing project shall be made under section 42(g);
- (4) Recapture of credit shall be made under section 42(j), except that the tax for the taxable year shall be increased under section 42(j)(1) only with respect to credits that were used to reduce state income taxes; and

(5) Application of at-risk rules shall be made under section 42(k); of the Internal Revenue Code.

~~[(f)]~~ (g) As provided in section 42(e), rehabilitation expenditures shall be treated as a separate new building and their treatment under this section shall be the same as in section 42(e). The definitions and special rules<sup>1</sup> in section 42(i) shall be operative for the purposes of this section.

~~[(g)]~~ (h) The state housing credit ceiling under section 42(h) shall be zero for the calendar year immediately following the expiration of the federal low-income housing tax credit program and for any calendar year thereafter, except for the carryover of any credit ceiling amount for certain projects in progress which, at the time of the federal expiration, meet the requirements of section 42.

~~[(h)]~~ (i) The credit allowed under this section shall be claimed against net income tax liability for the taxable year. For the purpose of deducting this tax credit, net income tax liability means net income tax liability reduced by all other credits allowed the taxpayer under this chapter.

A tax credit under this section that exceeds the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims for a tax credit under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to properly and timely claim the credit shall constitute a waiver of the right to claim the credit. A taxpayer may claim a credit under this section only if the building or project is a qualified low-income housing building or a qualified low-income housing project under section 42 of the Internal Revenue Code.

Section 469 (with respect to passive activity losses and credits limited) of the Internal Revenue Code shall be applied in claiming the credit under this section.

~~[(f)]~~ (j) In lieu of the credit awarded under this section for a qualified low-income building that has been awarded federal credits that are subject to the state housing credit ceiling under section 42(h)(3)(C) of the Internal Revenue Code, federal credits that are allocated pursuant to section 42(h)(4) of the Internal Revenue Code, or a subaward under section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the taxpayer owning the qualified low-income building may make a request to the corporation for a loan under section 201H-86. If the taxpayer elects to receive the loan pursuant to section 201H-86, the taxpayer shall not be eligible for the credit under this section.

~~[(f)]~~ (k) The director of taxation may adopt any rules under chapter 91 and forms necessary to carry out this section."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall take effect on January 1, 2017, and shall apply to qualified low-income buildings awarded credits after December 31, 2016; provided that this Act shall be repealed on December 31, 2021, and section 235-110.8, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act.

(Approved June 29, 2016.)

**Note**

1. Prior to amendment "relating to credit period in section 42(f) and the definitions and special rules" appeared here.

**ACT 130**

S.B. NO. 3077

A Bill for an Act Relating to Statewide Community Planning.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that with Honolulu's construction of an elevated rail transit system, the State has an opportunity to enhance Oahu's urban environment and increase the quality of life for residents by utilizing sound smart growth and transit-oriented development principles to revitalized neighborhoods and increase affordable housing inventory, among other public benefits. As the largest landowner of properties along the transit line, with approximately two thousand acres under the jurisdiction of various departments, the State must be proactive and coordinate planning and development efforts among state agencies to maximize the benefits of redevelopment of state lands in areas served by public transit.

The legislature further finds that in 2015, the ad-hoc state transit-oriented development task force was convened to identify and determine priority sites and projects that should be considered for transit-oriented development master

planning and development. Task force members included state and city and county agencies, elected officials, and numerous private individuals and entities. In December 2015, the task force submitted a report to the legislature, which included various recommendations such as formally constituting the state transit-oriented development task force to promote effective and efficient transit-oriented development planning and coordination among state agencies and counties statewide.

To ensure that the State has a unified vision and approach toward redevelopment of its properties, the purpose of this Act is to:

- (1) Designate the office of planning as the lead agency to coordinate and advance smart growth and transit-oriented development planning in the State; and
- (2) Establish an interagency council for transit-oriented development within the department of business, economic development, and tourism to coordinate effective and efficient transit-oriented development planning statewide.

This Act also authorizes the department of education to use school impact fees collected from transit-oriented development projects to be used for existing schools in the transit-oriented development area to address increases in school populations due to transit oriented development.

SECTION 2. Chapter 226, Hawaii Revised Statutes, is amended by adding two new sections to part II to be appropriately designated and to read as follows:

**“§226-A Hawaii interagency council for transit-oriented development.**

(a) There is established the Hawaii interagency council for transit-oriented development, which shall be an advisory body exempt from section 26-34, to coordinate and facilitate state agency transit-oriented development planning, and facilitate consultation and collaboration between the State and the counties on transit-oriented development initiatives. The Hawaii interagency council for transit-oriented development shall be established within the department of business, economic development, and tourism for administrative purposes.

(b) The Hawaii interagency council for transit-oriented development shall:

- (1) Serve as the State’s transit-oriented development planning and policy development entity with representation from state and county government and the community;
- (2) Formulate and advise the governor on the implementation of a strategic plan to address transit-oriented development projects, including mixed use and affordable and rental housing projects, on state lands in each county;
- (3) Facilitate the acquisition of funding and resources for state and county transit-oriented development programs, including affordable and rental housing projects, on state lands;
- (4) Monitor the preparation and conduct of plans and studies to facilitate implementation of state transit-oriented development plans prepared pursuant to this section, including but not limited to the preparation of site or master plans and implementation plans and studies;
- (5) Review all capital improvement project requests to the legislature for transit-oriented development projects, including mixed use and affordable and rental housing projects, on state lands within county-designated transit-oriented development zones or within a one-half-

- mile radius of public transit stations, if a county has not designated transit-oriented development zones;
- (6) Recommend policy, regulatory, and statutory changes, and identify resource strategies for the successful execution of the strategic plan;
- (7) Assemble accurate fiscal and demographic information to support policy development and track outcomes;
- (8) Consider collaborative transit-oriented development initiatives of other states that have demonstrated positive outcomes; and
- (9) Report annually to the governor, the legislature, and the mayor of each county on the progress of its activities, including formulation and progress on the strategic plan no later than twenty days prior to the convening of each regular session.
- (c) The strategic plan developed by the Hawaii interagency council for transit-oriented development shall:
  - (1) Coordinate with the counties on transit-oriented development;
  - (2) For each county, compile an inventory of state, county, and private sector transit-oriented development projects lacking infrastructure, identifying the type of infrastructure each project lacks, and the approximate timeframe when additional capacity is needed;
  - (3) Prioritize the development of transit-oriented development projects, including mixed use and affordable and rental housing projects, on state lands;
  - (4) Identify financing and prioritize state financing for the public infrastructure, facility, and service investments required to support transit-oriented development, mixed use, and affordable and rental housing project plans; and
  - (5) Encourage and promote partnerships between public and private entities to identify, renovate, and secure affordable housing options on state lands within county-designated transit-oriented development areas or within a one-half-mile radius of public transit stations, if a county has not designated transit-oriented development zones.

**§226-B Hawaii interagency council for transit-oriented development membership.** (a) The Hawaii interagency council for transit-oriented development shall be composed of the following members:

- (1) Director of the office of planning, who shall serve as co-chair;
- (2) Executive director of the Hawaii housing finance and development corporation, who shall serve as co-chair;
- (3) Chief of staff, office of the governor;
- (4) Chairperson of the board of land and natural resources;
- (5) Director of transportation;
- (6) Comptroller;
- (7) Director of health;
- (8) Director of human services;
- (9) Director of public safety;
- (10) Chairperson of the Hawaiian homes commission;
- (11) Chairperson of the stadium authority;
- (12) President of the University of Hawaii;
- (13) Superintendent of education;
- (14) Executive director of the Hawaii community development authority;
- (15) Executive director of the Hawaii public housing authority;
- (16) One member of the house of representatives to be designated by the speaker of the house of representatives; provided that the speaker

of the house of representatives may designate a second member of the house of representatives to serve as an alternate;

- (17) One member of the senate to be designated by the president of the senate; provided that the president of the senate may designate a second member of the senate to serve as an alternate;
- (18) The mayor of each county;
- (19) A representative of the Honolulu field office of the United States Department of Housing and Urban Development, who shall be requested to serve on a non-voting ex-officio basis by the governor;
- (20) A representative of the business community, to be designated by the governor;
- (21) A representative of the community who is a housing advocate, to be designated by the governor; and
- (22) A representative of the community with experience in housing and real estate development, to be designated by the governor.

(b) The nongovernmental members of the Hawaii interagency council for transit-oriented development shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(c) Except as provided in subsection (a)(16) and (17), if a member of the Hawaii interagency council for transit-oriented development is unable to attend a meeting, that member may appoint a designee to attend and to act on the member's behalf during the meeting."

SECTION 3. Section 225M-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The office of planning shall gather, analyze, and provide information to the governor to assist in the overall analysis and formulation of state policies and strategies to provide central direction and cohesion in the allocation of resources and effectuation of state activities and programs and effectively address current or emerging issues and opportunities. More specifically, the office shall engage in the following activities:

- (1) State comprehensive planning and program coordination. Formulating and articulating comprehensive statewide goals, objectives, policies, and priorities, and coordinating their implementation through the statewide planning system established in part II of chapter 226;
- (2) Strategic planning. Identifying and analyzing significant issues, problems, and opportunities confronting the State, and formulating strategies and alternative courses of action in response to identified problems and opportunities by:
  - (A) Providing in-depth policy research, analysis, and recommendations on existing or potential areas of critical state concern;
  - (B) Examining and evaluating the effectiveness of state programs in implementing state policies and priorities;
  - (C) Monitoring through surveys, environmental scanning, and other techniques—current social, economic, and physical conditions and trends; and
  - (D) Developing, in collaboration with affected public or private agencies and organizations, implementation plans and schedules and, where appropriate, assisting in the mobilization of resources to meet identified needs;
- (3) Planning coordination and cooperation. Facilitating coordinated and cooperative planning and policy development and implementa-



tion activities among state agencies and between the state, county, and federal governments, by:

- (A) Reviewing, assessing, and coordinating, as necessary, major plans, programs, projects, and regulatory activities existing or proposed by state and county agencies;
  - (B) Formulating mechanisms to simplify, streamline, or coordinate interagency development and regulatory processes; and
  - (C) Recognizing the presence of federal defense and security forces and agencies in the State as important state concerns;
- (4) Statewide planning and geographic information system. Collecting, integrating, analyzing, maintaining, and disseminating various forms of data and information, including geospatial data and information, to further effective state planning, policy analysis and development, and delivery of government services by:
- (A) Collecting, assembling, organizing, evaluating, and classifying existing geospatial and non-geospatial data and performing necessary basic research, conversions, and integration to provide a common database for governmental planning and geospatial analyses by state agencies;
  - (B) Planning, coordinating, and maintaining a comprehensive, shared statewide planning and geographic information system and associated geospatial database. The office shall be the lead agency responsible for coordinating the maintenance of the multi-agency, statewide planning and geographic information system and coordinating, collecting, integrating, and disseminating geospatial data sets that are used to support a variety of state agency applications and other spatial data analyses to enhance decision-making. The office shall promote and encourage free and open data sharing among and between all government agencies. To ensure the maintenance of a comprehensive, accurate, up-to-date geospatial data resource that can be drawn upon for decision-making related to essential public policy issues such as land use planning, resource management, homeland security, and the overall health, safety, and well-being of Hawaii's citizens, and to avoid redundant data development efforts, state agencies shall provide to the shared system either their respective geospatial databases or, at a minimum, especially in cases of secure or confidential data sets that cannot be shared or must be restricted, metadata describing existing geospatial data. In cases where agencies provide restricted data, the office of planning shall ensure the security of that data; and
  - (C) Maintaining a centralized depository of state and national planning references;
- (5) Land use planning. Developing and presenting the position of the State in all boundary change petitions and proceedings before the land use commission, assisting state agencies in the development and submittal of petitions for land use district boundary amendments, and conducting periodic reviews of the classification and districting of all lands in the State, as specified in chapter 205;
- (6) Coastal and ocean policy management. Carrying out the lead agency responsibilities for the Hawaii coastal zone management program, as specified in chapter 205A. Also, developing and maintaining an ocean and coastal resources information, planning, and manage-

ment system further developing and coordinating implementation of the ocean resources management plan, and formulating ocean policies with respect to the exclusive economic zone, coral reefs, and national marine sanctuaries;

- (7) Regional planning and studies. Conducting plans and studies to determine:
  - (A) The capability of various regions within the State to support projected increases in both resident populations and visitors;
  - (B) The potential physical, social, economic, and environmental impact on these regions resulting from increases in both resident populations and visitors;
  - (C) The maximum annual visitor carrying capacity for the State by region, county, and island; and
  - (D) The appropriate guidance and management of selected regions and areas of statewide critical concern.

The studies in subparagraphs (A) to (C) shall be conducted at appropriate intervals, but not less than once every five years;

- (8) Regional, national, and international planning. Participating in and ensuring that state plans, policies, and objectives are consistent, to the extent practicable, with regional, national, and international planning efforts; ~~[and]~~
- (9) Climate adaptation planning. Conducting plans and studies and preparing reports as follows:
  - (A) Develop, monitor, and evaluate strategic climate adaptation plans and actionable policy recommendations for the State and counties addressing expected statewide climate change impacts identified under Act 286, Session Laws of Hawaii 2012, through the year 2050;
  - (B) Provide planning and policy guidance and assistance to state and county agencies regarding climate change; and
  - (C) Publish its findings, recommendations, and progress reports on actions taken no later than December 31, 2017, and its annual report to the governor and the legislature thereafter~~[-]; and~~
- (10) Smart growth and transit-oriented development. Acting as the lead agency to coordinate and advance smart growth and transit-oriented development planning within the State as follows:
  - (A) Identify transit-oriented development opportunities shared between state and county agencies, including relevant initiatives such as the department of health's healthy Hawaii initiative and the Hawaii clean energy initiative;
  - (B) Refine the definition of "transit-oriented development" in the context of Hawaii, while recognizing the potential for smart growth development patterns in all locations;
  - (C) Clarify state goals for transit-oriented development and smart growth that support the principles of the Hawaii State Planning Act by preserving non-urbanized land, improving worker access to jobs, and reducing fuel consumption;
  - (D) Target transit-oriented development areas for significant increase in affordable housing and rental units;
  - (E) Conduct outreach to state agencies to help educate state employees about the ways they can support and benefit from transit-oriented development and the State's smart growth goals;
  - (F) Publicize coordinated state efforts that support smart growth, walkable neighborhoods, and transit-oriented development;

- (G) Review state land use decision-making processes to identify ways to make transit-oriented development a higher priority and facilitate better and more proactive leadership in creating walkable communities and employment districts, even if transit will only be provided at a later date; and
- (H) Approve all state agencies' development plans for parcels along the rail transit corridor. For the purposes of this subparagraph, "development plans" means conceptual land use plans that identify the location and planned uses within a defined area."

SECTION 4. Section 302A-1608, Hawaii Revised Statutes, is amended to read as follows:

**"§302A-1608 Accounting and expenditure requirements.** (a) Each designated school impact district shall be a separate benefit district. Fees collected within each school impact district shall be spent only within the same school impact district for the purposes collected.

(b) Land dedicated by the developer shall be used only as a site for the construction of one or more new schools or for the expansion of existing school facilities. If the land is never used for the school facility, it shall be returned to the developer, or the developer's successor in interest. Once used, the land may be sold, with the proceeds used to acquire land for school facilities in the same school impact district.

(c) If the land is not used for a school facility within twenty years of its dedication, it shall be returned to the developer, or the developer's successor in interest.

(d) Once used for school facilities, all or part of the land may be later sold. Proceeds from the sale shall be used to acquire land for school facilities in the same school impact district.

(e) Fee in lieu funds may be used for school site land acquisition and related expenses, including surveying, appraisals, and legal fees. Fee in lieu funds shall not be used for the maintenance or operation of existing schools in the district, construction costs, including architectural, permitting, or financing costs, or for administrative expenses.

(f) Notwithstanding any other law to the contrary, fee in lieu funds from projects within a county-designated transit oriented development zone may also be used to purchase completed construction, construct new school facilities in new or existing school sites, improve or renovate existing structures for school use, or lease land or facilities for school use within a county-designated transit oriented development zone.

~~[(f)]~~ (g) Construction cost component impact fees shall be used only for the costs of new school facilities that expands the student capacity of existing schools or adds student capacity in new schools. Construction cost component impact fees may not be used to replace an existing school located within the same school impact district, either on the same site or on a different site.

~~[(g)]~~ (h) Eligible construction costs include planning, engineering, architectural, permitting, financing, and administrative expenses, and any other capital equipment expenses pertaining to educational facilities.

~~[(h)]~~ (i) Construction cost component impact fees shall not be expended for:

- (1) The maintenance or operation of existing schools in the district; or
- (2) Portable or temporary facilities.

~~[(j)]~~ (i) If a closure, demolition, or conversion of an existing permanent department facility within a school impact district that has the effect of reducing student capacity occurs, an amount of new student capacity in permanent buildings equivalent to the lost capacity shall not be funded with school impact fees.

~~[(j)]~~ (k) Fees in lieu, proceeds from the sale of all or part of an existing school site that has been dedicated by a developer pursuant to the requirements of this subpart, and construction cost component impact fees shall be expended or encumbered within twenty years of the date of collection. Fees shall be considered spent or encumbered on a first-in, first-out basis. An expenditure plan for all collected impact fees shall be incorporated into the annual budget process of the department and subject to legislative approval of the budget.”

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2016-2017 to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 6. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 131

H.B. NO. 2293

A Bill for an Act Relating to the Hawaii Housing Finance and Development Corporation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that traditional zoning and land use designations are no longer adequate to meet current development trends. Mixed-use zoning encourages smart growth, and the development of compact, higher-density communities consisting of walkable areas with housing, jobs, shops, and services located within close proximity. Mixed-use developments are especially beneficial for low- and moderate-income households because they reduce transportation costs, traffic congestion, and the number of vehicle miles traveled by community residents.

The legislature further finds that pursuant to section 201H-44, Hawaii Revised Statutes, the Hawaii housing finance and development corporation is authorized to develop commercial, industrial, and other properties in connection with the development of any dwelling units if it determines that the uses can be “an integral part of the development and can help to preserve the lifestyles of the purchasers of dwelling units in the development.” Broadening this authority

to include development of multifamily rental housing would further enable the corporation to facilitate the development of affordable dwelling units in areas with mixed-use zoning.

The legislature also finds that under current law, the Hawaii housing finance and development corporation is authorized to develop certain types of facilities in partnership with the department of education and the department of accounting and general services. Expanding this authority to include other state and county governmental agencies would enable the corporation to use its development powers in partnership with any governmental agency that holds developable land.

The purpose of this Act is to enable the Hawaii housing finance and development corporation to develop mixed-use developments in partnership with state and county departments and agencies, as well as to further the objective of encouraging walking and active areas by locating affordable housing, jobs, shops, and services within close proximity.

SECTION 2. Section 201H-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The corporation, in its own behalf or on behalf of any federal, state, or county agency, may:

- (1) Clear, improve, and rehabilitate property;
- (2) Plan, develop, construct, and finance housing projects~~;~~, including mixed-use developments; and
- (3) In cooperation with any state or county department or agency, including the department of education and department of accounting and general services, plan [educational] facilities and related infrastructure as [a necessary and] an integral part of its housing projects, including mixed-use developments, using all its innovative powers toward achieving that end expeditiously and economically; provided that [the educational] facilities developed in cooperation with the department of education comply with the department of education’s educational [specifications, timelines, and siting] objectives and requirements.

For purposes of this subsection, “mixed-use developments” means a development that contains affordable residential dwelling units that may be combined with governmental, educational, commercial, cultural, institutional, or industrial uses; is approved by the county in which the project is located; and is subject to: chapter 104; title 40 United States Code sections 3141, 3142, 3143, 3144, 3146, and 3147; or a project labor agreement by law or contract in the construction of the project.”

SECTION 3. Section 201H-44, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[~~§201H-44~~]]~~ Commercial, industrial, and other uses.** (a) In connection with the development of any dwelling units under this chapter, the corporation may also develop commercial, industrial, and other properties if it determines that the uses can be an integral part of the development ~~[and]~~ or can help to ~~[preserve]~~ enhance the lifestyles of ~~[the purchasers of dwelling units in]~~ residents of the development. The corporation may designate any portions of the development for commercial, industrial, or other use and shall have all the powers granted under this chapter with respect thereto, including the power to bypass statutes, ordinances, charter provisions, and rules of any government agency

pursuant to section 201H-38. For this purpose, the corporation may use any of the funds authorized under this chapter.

(b) The corporation shall adopt rules that shall provide the manner in which the uses of properties shall be designated, and shall provide that any commercial, industrial, or other properties so developed shall be sold or leased at cost or at economic rents or sales prices. ~~[Sale or lease shall be made at cost to owners of commercial, industrial, or other facilities displaced by the corporation. All other leases or sales shall be at economic rents or sales prices determined by the corporation, after appraisal, to be consistent with rents or sales prices in similar locations or with similar terms.]~~ The net proceeds of all such sales or leases, less costs to the corporation, shall be deposited in the dwelling unit revolving fund.

The rules may also provide that during the first twenty years after its purchase, any commercial, industrial, or other property so developed and sold may be resold or assigned only to the corporation at the original purchase price plus the cost of any improvements made by the purchaser together with simple interest on all of the purchaser's equity in the property at the rate of seven per cent a year. ~~[Rules may also provide that ownership of the commercial, industrial, or other property cannot be separated from ownership of the residential property in connection with which it was sold or leased.]~~"

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

## ACT 132

H.B. NO. 2305

A Bill for an Act Relating to the Dwelling Unit Revolving Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that orderly and planned infrastructure construction is the foundation for planned population growth and desirable communities. It is a public purpose for which public funds should be appropriated and expended. Infrastructure construction should be coordinated and timed or phased with planned development. Adequate infrastructure to accommodate future growth would provide livable communities with a desirable quality of life, make possible strategically situated affordable housing near jobs, and allow necessary infrastructure capacity to support development. Based on population projections prepared by the State, the individual counties would first plan and determine where growth is desirable and then proceed to construct, in coordination with applicable state agencies, the infrastructure to support the planned growth in those areas.

Population increase will occur, and economic growth is necessary. Therefore, both should be planned for properly. Prior experience indicates that the lack of adequate infrastructure is a severe constraint to future growth. For example, as Honolulu plans for its new fixed guideway system, discussion will focus on quality of life issues as the community begins to balance higher densities in and around the transit corridor with the need to protect open space and agricultural areas. Infrastructure capacity must be increased to accommodate higher densities in and around the transit corridor. While this problem is most evident on Oahu, the neighbor islands also suffer from lack of infrastructure capacity to

accommodate future growth. It is necessary to assist all counties, in accordance with an orderly and predictable plan for increasing infrastructure capacity, to better utilize existing areas for planned growth and mitigate impacts to areas that are appropriate for growth.

The State's role in dealing with this growth would be to provide coordination with the counties on "regional state infrastructure" construction in areas of planned growth. Although the primary responsibility for meeting basic municipal infrastructure needs continues to reside with the counties, much of the work will need to be coordinated with the State for "regional state infrastructure improvements." Infrastructure projects included under this Act are regional sewer, water, drainage, roads, and telecommunications and broadband, if a project increases the capacity to accommodate future growth, and not solely benefit one particular project. Increased capacity is distinguishable from maintenance. While maintenance would increase the life of the facility or infrastructure, only projects that would result in increased infrastructure capacity would be eligible for supplemental funding under this Act.

The purpose of this Act is to provide grants and loans to state agencies, and loans to the counties and private developers for infrastructure improvements. Furthermore, the intent of this Act is to allow for innovative financing techniques, such as tax increment financing and improvement districts, to fund loans based upon the use of the new infrastructure capacity.

SECTION 2. Chapter 201H, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§201H- Regional state infrastructure subaccounts.** (a) The corporation, upon request by a county, may establish and operate a regional state infrastructure subaccount within the dwelling unit revolving fund established pursuant to section 201H-191 for the benefit of the housing and mixed-use transit-oriented development projects within the county.

(b) Each regional state infrastructure subaccount shall consist of the following sources of revenue:

- (1) Moneys received by the corporation from counties for the repayment of the loan principal and the payment of simple interest from various assessments or fees from special improvement districts, improvement districts, tax increment financing districts, community facilities districts, and other areas where property value increases are captured over periods of time for the purposes of infrastructure financing;
- (2) Appropriations from the legislature;
- (3) Federal grants and subsidies to the State or counties;
- (4) Private investments; and
- (5) Voluntary contributions.

(c) The corporation shall expend revenues in the subaccounts to make grants and loans to state agencies, and loans to counties or private developers, for the costs, in whole or in part, of infrastructure improvements that would increase the capacity of the infrastructure facilities, including regional sewer systems, water systems, drainage systems, roads, and telecommunications and broadband.

Grants and loans shall be made only for capital improvement projects approved by the respective county council and mayor, or state agency, as applicable, with a view towards planned growth rather than upkeep and maintenance.

(d) Eligible costs shall include those for planning, design, feasibility studies, construction, and materials. No grant or loan shall be made:

- (1) For maintenance or repair costs unless the construction would simultaneously increase the carrying capacity of the infrastructure facility; or
- (2) Solely for mass transit or electrical utilities.

The corporation may also expend revenues in the subaccounts to repay private investors for their investment plus any interest accrued on their investments made into the subaccounts to finance, in whole or in part, infrastructure improvements that would increase the capacity of the infrastructure facilities, including regional sewer systems, water systems, drainage systems, roads, and telecommunications and broadband.

(e) The corporation may accept improved land from the counties or private developers in repayment of their loans.

(f) The corporation shall adopt rules in accordance with chapter 91 for the purposes of this section.”

SECTION 3. Section 201H-191, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§201H-191]] Dwelling unit revolving fund.** (a) There is created a dwelling unit revolving fund. The funds appropriated for the purpose of the dwelling unit revolving fund and all moneys received or collected by the corporation for the purpose of the revolving fund shall be deposited in the revolving fund. The proceeds in the revolving fund shall be used to reimburse the general fund to pay the interest on general obligation bonds issued for the purposes of the revolving fund, for the necessary expenses in administering housing development programs~~[-]~~ and regional state infrastructure programs, and for carrying out the purposes of housing development programs~~[-]~~ and regional state infrastructure programs, including but not limited to the expansion of community facilities and regional state infrastructure constructed in conjunction with housing and mixed-use transit-oriented development projects, permanent primary or secondary financing, and supplementing building costs, federal guarantees required for operational losses, and all things required by any federal agency in the construction and receipt of federal funds or low-income housing tax credits for housing projects.

(b) Subject to the requirements of subsection (a), proceeds in the revolving fund may be used to establish and operate regional state infrastructure subaccounts pursuant to section 201H-.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 133

H.B. NO. 2350

A Bill for an Act Relating to Foster Children.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the Preventing Sex Trafficking and Strengthening Families Act of 2014, Public Law 113-183, expands the opportunities for children in foster care to participate in age or developmentally



appropriate extracurricular, enrichment, cultural, and social activities equal to their classmates and peers in accordance with the “reasonable and prudent parent standard”.

The Preventing Sex Trafficking and Strengthening Families Act, title 42 United States Code section 675(10)(A), defines the “reasonable and prudent parent standard” as “the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, and social activities”.

The legislature further finds that qualified immunity from civil liability for injury to a child resulting from participation in extracurricular activities will encourage and allow resource caregivers and child caring institutions to make reasonable parenting decisions and will remove barriers to recruitment and retention of high quality resource caregivers. Qualified immunity from liability for resource caregivers and child caring institutions that authorize a child’s participation in ordinary childhood activities in accordance with the reasonable and prudent parent standard as defined under federal law protects and enhances the capacity of resource caregivers and child caring institutions and to encourage and support children.

The Preventing Sex Trafficking and Strengthening Families Act also requires that children in foster care who are fourteen years of age and older be included in case planning and be informed of their rights and the options available to them. The federal Act lowered the age from sixteen to fourteen years old in recognition that those children should be included in the important planning processes that will strengthen their self-sufficiency and better prepare them for successful transition from foster care into adulthood.

Compared to their peers, young people who have experienced foster care are more likely to become homeless and unemployed when they age out of foster care, are less likely to complete high school or postsecondary education, and are more likely to have physical, developmental, and mental health challenges. Unlike their peers, most lose their support system when they reach age eighteen and are discharged from state custody.

The purpose of this Act is to bring the State into compliance with the Preventing Sex Trafficking and Strengthening Families Act of 2014; expand the opportunities for children in foster care to participate equally with their classmates and peers by providing qualified immunity from liability for resource caregivers and child caring institutions for their decisions regarding the child’s participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities; and require courts, in proceedings for children aged fourteen years or older, to make findings and include in the permanent plan the services needed to assist the child to transition from foster care to independent living.

SECTION 2. Section 346-16, Hawaii Revised Statutes, is amended by amending the definition of “foster boarding home” to read as follows:

“~~Foster boarding~~” “Resource family home” means any boarding home in which:

- (1) One or more, but fewer than six, minor children are received; ~~and~~  
or
- (2) Six or more minor siblings are placed together in the best interests of the children,

for care and maintenance apart from their parents or guardians on a twenty-four hour basis for fee or charge.”

SECTION 3. Section 346-17, Hawaii Revised Statutes, is amended to read as follows:

**“§346-17 Child placing organizations, child caring institutions, and ~~[foster boarding]~~ resource family homes; authority over, investigation of, and standards for.** (a) No child placing organization shall engage in the investigation, placement, and supervision of minor children in foster care unless it meets the standards of conditions, management, and competence set by the department of human services.

(b) No child caring institution shall receive minor children for care and maintenance unless it meets the standards of conditions, management, and competence to care for and ~~[train]~~ educate children set by the department.

(c) No ~~[foster boarding]~~ resource family home shall receive for care and maintenance any child unless:

(1) It meets with the standards of conditions, management, and competence set by the department; and

(2) The ~~[foster boarding]~~ resource family home applicant successfully completes ~~[foster parent]~~ resource caregiver training; provided that ~~[after July 1, 1999,]~~ new special licensed or relative ~~[foster]~~ resource family home ~~[care providers]~~ caregivers licensed for a specific child or children shall successfully complete ~~[foster parent]~~ resource caregiver training within the first year following placement of the first child into the new special licensed or relative ~~[foster]~~ resource family home.

(d) The department shall adopt rules pursuant to chapter 91 relating to:

(1) Standards for the organization and administration of child placing organizations; and

(2) Standards ~~[of]~~ for the conditions, management, operations, and competence of child caring institutions and resource family homes for the care ~~[and training]~~, education, and protection of minor children ~~[in child caring institutions and foster boarding homes; and]~~

(3) ~~Standards of conditions and competence of operation of foster boarding homes as may be necessary to protect the welfare of children].~~

(e) All rules of the department shall have the force and effect of law, and any violation thereof or of this section shall be punishable by a fine of not more than \$200.

(f) As a condition for a certificate of approval, any organization, institution, or ~~[foster boarding]~~ resource family home, including all adults residing in the ~~[foster boarding]~~ resource family home, shall:

(1) Meet all standards and requirements established by the department;

(2) Be subject to criminal history record checks in accordance with section 846-2.7, and child abuse and neglect registry checks, in accordance with departmental procedures; and

(3) Provide consent to the department or its designee to obtain criminal history record and child abuse and neglect registry information.

New employees of the organization, institution, or home shall be fingerprinted within five working days of employment.

(g) Upon approval of the organization, institution, or ~~[foster boarding]~~ resource family home, the department or its authorized agents shall issue a certificate of approval that shall continue in force for one year or for two years

if the organization, institution, or ~~[foster boarding]~~ resource family home meets the criteria established by the department, unless sooner revoked for cause. The certificate shall be renewed by the department or its authorized agents, after annual or biennial investigation, if the investigation discloses that the organization, institution, or ~~[foster boarding]~~ resource family home continues to meet the standards set by the department. The certificate of approval shall be a permit to operate the child placing organization, child caring institution, or ~~[foster boarding]~~ resource family home, and no person or organization shall operate or maintain the organization, institution, or ~~[foster boarding]~~ resource family home without the certificate.

(h) Any child placing organization, child caring institution, or ~~[foster boarding]~~ resource family home shall be subject to review or investigation at any time and in a manner, place, and form as may be prescribed by the department or its authorized agents.

(i) As used in this section, ~~["foster parent"]~~ "resource caregiver training" means training or instruction in special skills and knowledge to care for foster children.

(j) The department or its designee shall request:

- (1) A criminal history record check through the Hawaii criminal justice data center on all operators, employees, and new employees of child care institutions, child placing organizations, and ~~[foster boarding]~~ resource family homes, including all adults residing in the ~~[foster boarding]~~ resource family homes, subject to ~~[licensure]~~ checks pursuant to section 846-2.7; and
- (2) A child abuse and neglect registry check on all operators, employees, and new employees of child care institutions, child placing organizations, and adults residing in a ~~[foster boarding]~~ resource family home subject to licensure in accordance with departmental procedures.

(k) The department may deny a certificate of approval if an operator, employee, or new employee of a child care institution or child placing organization's facility, or any adult residing in a ~~[foster boarding]~~ resource family home, was convicted of a crime other than a minor traffic violation involving a fine of \$50 or less and if the department finds that the criminal history record or child abuse registry history of an operator, employee, new employee, or adult residing in a ~~[foster boarding]~~ resource family home poses a risk to the health, safety, or well-being of the children in care.

(l) The department or its designee shall make a name inquiry into the criminal history records for the first two years of certification of a ~~[foster boarding]~~ resource family home and annually or biennially thereafter and into the child abuse and neglect registry in accordance with departmental procedures depending on the certification status of the home.

(m) Any resource caregiver or child caring institution issued a certificate of approval pursuant to this section shall be immune from liability in a civil action to recover damages for injury, death, or loss to a person or property that results by authorizing a child in the caregiver's or institution's foster care to participate in an extracurricular, enrichment, cultural, or social activity; provided that the authorization is in accordance with the reasonable and prudent parent standard as defined in title 42 United States Code section 675(10)(A)."

SECTION 4. Section 587A-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department or an authorized agency, as resource family or permanent custodian, shall abide by the following guiding principles and ensure that a child in foster care:

- (1) Lives in a safe and healthy home, free from physical, psychological, sexual, and other abuse;
- (2) Has adequate:
  - (A) Food that is nutritious and healthy;
  - (B) Clothing;
  - (C) Medical care, dental and orthodontic services, and corrective vision care; and
  - (D) Mental health services;
- (3) Has supervised or unsupervised in-person, telephone, or other forms of contact with the child’s parents and siblings while the child is in foster care, unless prohibited by court order;
- (4) Has in-person contact with the child’s assigned child protective services worker, guardian ad litem, and if applicable, the child’s probation officer;
- (5) Meets with the presiding judge in the child’s case;
- (6) Is enrolled in a comprehensive health insurance plan and, within forty-five days of out-of-home placement, is provided with a comprehensive health assessment and treatment as recommended;
- (7) May freely exercise the child’s own religious beliefs, including the refusal to attend any religious activities and services;
- (8) Has a personal bank account and assistance in managing the child’s personal income consistent with the child’s age and development, unless safety or other concerns require otherwise;
- (9) Has the right to attend school ~~[and participate in appropriate extracurricular activities]~~ and, if the child is moved during a school year, has the right to complete the school year at the same school, if practicable; ~~[and]~~
- (10) Beginning at age twelve, is provided with age-appropriate life skills training and a transition plan for appropriately moving out of the foster care system, as well as written information concerning independent living programs, foster youth organizations, transitional planning services, and independent living case management programs that are available to all children in foster care who are twelve years of age or older and their resource families[-]; and
- (11) May participate in extracurricular, enrichment, cultural, and social activities; provided that the child caring institution or resource caregiver authorizes the participation in accordance with the reasonable and prudent parent standard as defined in title 42 United States Code section 675(10)(Ap).”

SECTION 5. Section 587A-31, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) At each permanency hearing, the court shall make written findings pertaining to:

- (1) The extent to which each party has complied with the service plan and progressed in making the home safe;
- (2) Whether the current placement of the child continues to be appropriate and in the best interests of the child or if another in-state or out-of-state placement should be considered;
- (3) The court’s projected timetable for reunification or, if the current placement is not expected to be permanent, placement in an adop-

- tive home, with a legal guardian, or under the permanent custody of the department or an authorized agency;
- (4) Whether the department has made reasonable efforts, in accordance with the safety and well-being of the child, to:
    - (A) Place siblings who have been removed from the family home with the same resource family, adoptive placement, or legal guardians; and
    - (B) Provide for frequent visitation or other ongoing interactions with siblings who are not living in the same household;
  - (5) The appropriate permanency goal for the child, including whether a change in goal is necessary;
  - (6) Whether the department has made reasonable efforts to finalize the permanency goal in effect for the child and a summary of those efforts;
  - (7) The date by which the permanency goal for the child is to be achieved;
  - (8) In the case of a child who has attained [~~sixteen~~] fourteen years of age, the services needed to assist the child with the transition from foster care to independent living; and
  - (9) Consultations with the child in an age-appropriate manner about the proposed plan for permanency or transition from foster care to independent living.”

SECTION 6. Section 587A-32, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The permanent plan shall:
- (1) State whether the permanency goal for the child will be achieved through adoption, legal guardianship, or permanent custody;
  - (2) Establish a reasonable period of time by which the adoption or legal guardianship shall be finalized;
  - (3) Document:
    - (A) A compelling reason why legal guardianship or permanent custody is in the child’s best interests if adoption is not the goal; or
    - (B) A compelling reason why permanent custody is in the child’s best interests if adoption or legal guardianship is not the goal;
  - (4) Establish other related goals, including those pertaining to the stability of the child’s placement; education; health; therapy; counseling; relationship with the child’s birth family, including visits, if any; cultural connections; and preparation for independent living;
  - (5) If a child has reached the age of [~~sixteen~~] fourteen, describe the services needed to assist the child with the transition from foster care to independent living; and
  - (6) Describe the methods for achieving the goals and objectives set forth in paragraphs (4) and (5).”

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act, upon its approval, shall take effect on July 1, 2016.

(Approved June 29, 2016.)

## ACT 134

S.B. NO. 2878

A Bill for an Act Relating to Youth Transitioning from Foster Care.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that improving the transition of foster youth and former foster youth to the challenges of adulthood requires a supportive safety net and system that include an opportunity for higher education. The legislature finds that providing financial assistance for higher education for former foster youth is one important part of the supportive safety net. Existing law allows former foster youth to apply for higher education payments until the age of twenty-two. The legislature finds that for many former foster youth, readiness for higher education may come after they attain twenty-two years of age, and that extending the age to twenty-six would afford former foster youth more time to access higher education.

In further support of youth transitioning from foster care to adulthood, in 2013, the legislature passed Act 252, Session Laws of Hawaii 2013, creating the young adult voluntary foster care program, which became effective on July 1, 2014. However, there are some key areas regarding eligibility and program requirements that need clarification for ongoing implementation.

The purpose of this Act is to extend the deadline for former foster youth to apply for financial assistance for higher education costs from age twenty-two to age twenty-six, to clarify that financial assistance available to Hawaii's former foster youth is for related higher education costs and not specifically limited to room and board costs, and to clarify eligibility and program requirements for the ongoing implementation of the young adult voluntary foster care program.

SECTION 2. Section 346-17.4, Hawaii Revised Statutes, is amended to read as follows:

**"§346-17.4 Higher education ~~[board-allowance]~~ stipends for students.**

(a) An eligible former foster youth shall be eligible for a higher education ~~[board allowance]~~ stipend after reaching the age of majority, and the higher education ~~[board allowance]~~ stipend for that former foster youth shall be paid to an ~~[accredited institution of higher education, another]~~ intermediary contracted by the department, to the former foster youth, or to the former foster youth's former ~~[foster parents]~~ resource caregivers, adoptive parents, or legal custodians, as appropriate; provided that:

- (1) The former foster youth is twenty-six years old or younger;
- (2) The former foster youth has submitted ~~[an]~~ a completed application for ~~[the] a higher education ~~[board allowance through the age of twenty-one years old, except that a former foster youth who is between the ages of twenty-two years and twenty-six years on July 1, 2008, and attending an institution of higher education, may apply for a higher education board allowance after July 1, 2008, and no later than June 30, 2009;]~~ stipend six months prior to the youth's twenty-seventh birthday; and~~
- (3) The former foster youth is attending or has been accepted to attend an accredited institution of higher education.

(b) The higher education ~~[board allowance]~~ stipend may be issued and applied to costs incurred while the former foster youth is attending an accredited institution of higher education on a full-time basis or on a part-time basis, in accordance with rules adopted by the department.

~~[(e)]~~ Reimbursement to foster parents for the former foster youth's higher education board cost up to the maximum allowable board amount shall be made retroactive to the former foster youth's entry into an accredited institution of higher education on a full-time basis, but no earlier than July 1, 1987, or on a part-time basis for the first academic year, but no earlier than July 1, 1999.

~~(d)~~ Higher education board allowances may be applied by the former foster youth to costs incurred in undertaking full-time studies or part-time studies at an institution of higher education in accordance with rules adopted by the department.

~~(e)]~~ ~~(c)~~ The duration of the total higher education [board allowance] stipend shall not exceed a cumulative total of sixty months.

~~(d)~~ The amount of the higher education stipend shall be based on the financial support the department provides in accordance with rules adopted by the department.

~~[(f)]~~ ~~(e)~~ The department's standards relating to income resources of foster children shall be applicable to this section.

~~[(g)]~~ ~~(f)~~ Higher education [board allowances] stipends shall be provided subject to the availability of state and federal funds."

SECTION 3. Section 346-395, Hawaii Revised Statutes, is amended to read as follows:

**“[[§346-395]] Eligibility.** A young adult may continue to receive services under this part if the young adult meets the following criteria:

- (1) The young adult was:
  - (A) Under the permanent ~~[or]~~ custody, foster custody, voluntary foster custody, or court-ordered temporary foster custody of the department at the time the young adult attained the age of eighteen;
  - (B) A child who was placed in guardianship after attaining the age of sixteen[;] and the legal guardians are no longer willing to provide emotional and financial support; or
  - (C) A child who was adopted after attaining the age of sixteen[;] and the adoptive parents are no longer willing to provide emotional and financial support;
- (2) The young adult voluntarily consents to participate in the young adult voluntary foster care program[;] and meets the program requirements;
- (3) The court finds that exercising jurisdiction under this part is in the young adult's best interest; and
- (4) The young adult is:
  - (A) Completing secondary education or a program leading to an equivalent credential;
  - (B) Enrolled in an institution that provides post-secondary or vocational education;
  - (C) Participating in a program or activity designed to promote or remove barriers to employment;
  - (D) Employed for at least eighty hours per month; or
  - (E) Incapable of doing any of the activities described in subparagraphs (A) to (D) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the young adult."

SECTION 4. Section 346-396, Hawaii Revised Statutes, is amended to read as follows:

**“~~§346-396~~ Voluntary care agreement.** If a young adult is no longer under jurisdiction pursuant to chapter 587A ~~[but]~~ as the subject child and chooses to participate in the young adult voluntary foster care program and meets the eligibility criteria set forth in section 346-395, the department and the young adult shall enter into a voluntary care agreement that shall include, at a minimum, the following:

- (1) The obligation for the young adult to continue to meet the conditions for eligibility described in section 346-395 and the program requirements for the duration of the voluntary care agreement;
- (2) The young adult's right to terminate the voluntary care agreement at any time; and
- (3) The voluntary nature of the young adult's participation in the young adult voluntary foster care program.”

SECTION 5. Section 346-407, Hawaii Revised Statutes, is repealed.

SECTION 6. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 135

H.B. NO. 2084

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that many health insurance policies and programs exclude transgender people from accessing care. Transgender people routinely experience serious and life-threatening discrimination, and the practice of denying health insurance coverage to a person based on gender identity or gender expression is against public policy.

The purpose of this Act is to prohibit the denial, exclusion, or limitation of health care services or treatment to a person on the basis of a person's actual gender identity or perceived gender identity.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 10A to be appropriately designated and to read as follows:

**“§431:10A- Non-discrimination on the basis of actual gender identity or perceived gender identity; coverage for services.** (a) No individual and group accident and health or sickness policy, contract, plan, or agreement that provides health care coverage shall discriminate with respect to participation and coverage under the policy, contract, plan, or agreement against any person on the basis of actual gender identity or perceived gender identity.



(b) Discrimination under this section includes the following:

- (1) Denying, canceling, limiting, or refusing to issue or renew an insurance policy, contract, plan, or agreement on the basis of a person's or the person's family member's actual gender identity or perceived gender identity;
- (2) Demanding or requiring a payment or premium that is based on a person's or the person's family member's actual gender identity or perceived gender identity;
- (3) Designating a person's or the person's family member's actual gender identity or perceived gender identity as a preexisting condition to deny, cancel, or limit coverage; and
- (4) Denying, canceling, or limiting coverage for services on the basis of actual gender identity or perceived gender identity including but not limited to the following:
  - (A) Health care services related to gender transition; provided that there is coverage under the policy, contract, plan, or agreement for the services when the services are not related to gender transition; and
  - (B) Health care services that are ordinarily or exclusively available to individuals of one sex.

(c) The medical necessity of any treatment shall be determined pursuant to the insurance policy, contract, plan, or agreement and shall be defined in a manner that is consistent with other covered services.

(d) Any coverage provided shall be subject to copayment, deductible, and coinsurance provisions of an individual and group accident and health or sickness policy, contract, plan, or agreement that are no less favorable than the copayment, deductible, and coinsurance provisions for substantially all other medical services covered by the policy, contract, plan, or agreement.

(e) As used in this section unless the context requires otherwise:

"Actual gender identity" means a person's internal sense of being male, female, a gender different from the gender assigned at birth, a transgender person, or neither male nor female.

"Gender transition" means the process of a person changing the person's outward appearance or sex characteristics to accord with the person's actual gender identity.

"Perceived gender identity" means an observer's impression of another person's actual gender identity or the observer's own impression that the person is male, female, a gender different from the gender designed at birth, a transgender person, or neither male nor female.

"Transgender person" means a person who has gender identity disorder or gender dysphoria, has received health care services related to gender transition, adopts the appearance or behavior of the opposite sex, or otherwise identifies as a gender different from the gender assigned to that person at birth."

SECTION 3. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to article 1 to be appropriately designated and to read as follows:

**"§432:1- Non-discrimination on the basis of actual gender identity or perceived gender identity; coverage for services.** (a) No individual and group hospital and medical service policy, contract, plan, or agreement that provides health care coverage shall discriminate with respect to participation and coverage under the policy, contract, plan, or agreement against any person on the basis of actual gender identity or perceived gender identity.

(b) Discrimination under this section includes the following:

- (1) Denying, canceling, limiting, or refusing to issue or renew an insurance policy, contract, plan, or agreement on the basis of a person's or the person's family member's actual gender identity or perceived gender identity;
- (2) Demanding or requiring a payment or premium that is based on a person's or the person's family member's actual gender identity or perceived gender identity;
- (3) Designating a person's or the person's family member's actual gender identity or perceived gender identity as a preexisting condition to deny, cancel, or limit coverage; and
- (4) Denying, canceling, or limiting coverage for services on the basis of actual gender identity or perceived gender identity including but not limited to the following:
  - (A) Health care services related to gender transition; provided that there is coverage under the policy, contract, plan, or agreement for the services when the services are not related to gender transition; and
  - (B) Health care services that are ordinarily or exclusively available to individuals of one sex.

(c) The medical necessity of any treatment shall be determined pursuant to the insurance policy, contract, plan, or agreement and shall be defined in a manner that is consistent with other covered services.

(d) Any coverage provided shall be subject to copayment, deductible, and coinsurance provisions of an individual and group hospital and medical service policy, contract, plan, or agreement that are no less favorable than the copayment, deductible, and coinsurance provisions for substantially all other medical services covered by the policy, contract, plan, or agreement.

(e) As used in this section unless the context requires otherwise:

"Actual gender identity" means a person's internal sense of being male, female, a gender different from the gender assigned at birth, a transgender person, or neither male nor female.

"Gender transition" means the process of a person changing the person's outward appearance or sex characteristics to accord with the person's actual gender identity.

"Perceived gender identity" means an observer's impression of another person's actual gender identity or the observer's own impression that the person is male, female, a gender different from the gender designed at birth, a transgender person, or neither male nor female.

"Transgender person" means a person who has gender identity disorder or gender dysphoria, has received health care services related to gender transition, adopts the appearance or behavior of the opposite sex, or otherwise identifies as a gender different from the gender assigned to that person at birth."

SECTION 4. Chapter 432D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§432D- Non-discrimination on the basis of actual gender identity or perceived gender identity; coverage for services.** (a) No health maintenance organization policy, contract, plan, or agreement shall discriminate with respect to participation and coverage under the policy, contract, plan, or agreement against any person on the basis of actual gender identity or perceived gender identity.

(b) Discrimination under this section includes the following:

- (1) Denying, canceling, limiting, or refusing to issue or renew an insurance policy, contract, plan, or agreement on the basis of a person's

or the person's family member's actual gender identity or perceived gender identity;

- (2) Demanding or requiring a payment or premium that is based on a person's or the person's family member's actual gender identity or perceived gender identity;
- (3) Designating a person's or the person's family member's actual gender identity or perceived gender identity as a preexisting condition to deny, cancel, or limit coverage; and
- (4) Denying, canceling, or limiting coverage for services on the basis of actual gender identity or perceived gender identity including but not limited to the following:
  - (A) Health care services related to gender transition; provided that there is coverage under the policy, contract, plan, or agreement for the services when the services are not related to gender transition; and
  - (B) Health care services that are ordinarily or exclusively available to individuals of one sex.

(c) The medical necessity of any treatment shall be determined pursuant to the insurance policy, contract, plan, or agreement and shall be defined in a manner that is consistent with other covered services.

(d) Any coverage provided shall be subject to copayment, deductible, and coinsurance provisions of a health maintenance organization policy, contract, plan, or agreement that are no less favorable than the copayment, deductible, and coinsurance provisions for substantially all other medical services covered by the policy, contract, plan, or agreement.

(e) As used in this section unless the context requires otherwise:

"Actual gender identity" means a person's internal sense of being male, female, a gender different from the gender assigned at birth, a transgender person, or neither male nor female.

"Gender transition" means the process of a person changing the person's outward appearance or sex characteristics to accord with the person's actual gender identity.

"Perceived gender identity" means an observer's impression of another person's actual gender identity or the observer's own impression that the person is male, female, a gender different from the gender designed at birth, a transgender person, or neither male nor female.

"Transgender person" means a person who has gender identity disorder or gender dysphoria, has received health care services related to gender transition, adopts the appearance or behavior of the opposite sex, or otherwise identifies as a gender different from the gender assigned to that person at birth."

SECTION 5. Notwithstanding any other law to the contrary, the non-discrimination provisions required under sections 2, 3, and 4 of this Act shall apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes, issued, renewed, modified, altered, or amended on or after January 1, 2017.

SECTION 6. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval; provided that sections 2, 3, and 4 shall apply to all policies, contracts, plans, or agreements issued or renewed in the State on or after January 1, 2017.

(Approved June 29, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 136

H.B. NO. 1943

A Bill for an Act Relating to Long-Term Care Facilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that long-term care facilities in the State face major financial challenges in providing quality health care for Hawaii residents. These challenges are largely the result of payments for medicaid enrollees that do not cover the actual costs of care. Long-term care facilities have not received an inflationary update to their reimbursement rates for a number of years and, as such, have seen the gap between costs and reimbursements widen considerably. The financial effect is further magnified by the fact that roughly seventy per cent of patients in long-term care facilities are covered by the state medicaid program.

The purpose of this Act is to preserve access to health care for medicaid recipients by providing an inflationary adjustment to the long-term care reimbursement methodology used to reimburse facilities for medicaid recipients.

SECTION 2. (a) The department of human services shall recognize an annual cost increase to a long-term care facility's provider-specific prospective payment rate by applying an inflation adjustment factor to the provider's annual costs or basic prospective payment system rates.

(b) The annual inflation adjustment factor shall be the reimbursement rate approved by the federal government in the medicaid state plan.

(c) The cost increase shall only apply for fiscal year 2016-2017.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,553,559 or so much thereof as may be necessary for fiscal year 2016-2017 for the purpose of providing an inflationary adjustment to long-term care facilities' provider-specific prospective payment rates.

The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2016, and shall be repealed on June 30, 2017.

(Approved June 29, 2016.)

## ACT 137

S.B. NO. 2076

A Bill for an Act Relating to Health Care.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that in 2013, the federal government established the durable medical equipment competitive bidding program in one hundred metropolitan areas across the nation. The city and county of Honolulu was included as one of those areas and is the only Hawaii locality that was required to participate.

In the years since the competitive bidding program was established, the legislature finds that the program has been harmful to beneficiaries on Oahu. The program has reduced reimbursements drastically for local providers, com-

promised the quality of care for residents, disrupted health status, and increased costs for seniors and their families.

There are numerous examples that illustrate the negative consequences of this program. For example, the minimum shipping time for equipment and supplies is two to four days, and the typical wait time for physician-ordered wheelchairs and hospital beds is four to eight weeks. This often results in discharge delays, which are very costly for the entire health care system. In order to avoid these delays, many patients and families dip into their own savings and pay the full price for the equipment themselves. In other instances, providers loan out their equipment with no guarantee the equipment will be returned.

The legislature further finds that there is also a unique problem in Hawaii of contacting vendors, since many are based on the mainland with no special phone or service hours to account for the time difference. As a result, if a beneficiary in Hawaii attempts to make any inquiry about an order after 11:00 a.m. Hawaii-Aleutian standard time, the offices are often closed.

To make matters worse, the federal government plans to roll out a form of the competitive bidding program into the neighbor islands in 2016, which will create greater challenges for rural beneficiaries when trying to access needed services, resulting in reductions in their health and quality of life.

The purpose of this Act is to establish a licensure program for suppliers of durable medical equipment, prosthetics, orthotics, and related supplies through the office of health care assurance. This licensure program will help patients in Hawaii get access to critical, life-sustaining medical supplies by setting standards of service for suppliers.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . DURABLE MEDICAL EQUIPMENT SUPPLIER LICENSE PROGRAM**

**§321-A Title.** This part shall be known and may be cited as the “durable medical equipment supplier license program”.

**§321-B Definitions.** As used in this part:

“Consumer” means a health care facility, health care professional, or health care provider, as defined in section 432E-1, or any individual who is prescribed durable medical equipment as the result of medical necessity.

“Department” means the department of health.

“Durable medical equipment” means equipment that is considered a selected product under the Centers for Medicare and Medicaid Services durable medical equipment, prosthetics, orthotics, and supplies competitive bidding program that can stand repeated use; is primarily and customarily used to serve a medical purpose; is generally not useful to a person in the absence of an illness or injury; is appropriate for use in the home; does not contain any prescription drug; and is not considered to be a specialty item, equipment, or service.

“Durable medical equipment supplier” means a person who sells, dispenses, delivers, or services durable medical equipment.

**§321-C Licensing.** It shall be unlawful for any person to operate as a durable medical equipment supplier that sells, dispenses, delivers, or services durable medical equipment to a consumer in the State without first obtaining a license. To receive a license, a durable medical equipment supplier shall attest and provide corroborating documentation to the department that the supplier:

- (1) Is in compliance with the business registration laws of the State and has all required tax identification numbers;
- (2) Is licensed and in good standing in the state in which its dispensing facilities are primarily located, if applicable, and complies with all applicable state and federal laws, rules, and standards;
- (3) Has designated a responsible agent or agents either in or out of the State who will be responsible for providing timely and satisfactory services to consumers in the State; provided that:
  - (A) The responsible agent or agents must be available to consumers in the State by phone during standard business hours in Hawaii to answer inquiries or resolve issues; and
  - (B) If the responsible agent or agents are not immediately available, then the supplier shall have a system capable of accepting and recording incoming phone inquiries; provided that the supplier shall respond no later than one business day after the inquiry is received;
- (4) Has implemented and maintains written procedures at each location for handling complaints and problems from all consumers, which includes a complaint file documenting complaints or problems and resolution of the complaints or problems; and
- (5) Will agree to notify consumers within two business days if the supplier cannot or will not provide the equipment, item, or service ordered; provided that suppliers may be exempt from this requirement if selling, dispensing, delivering, or servicing specialty equipment or items.

**§321-D License fee.** The department may assess a license fee of no more than \$350 on each durable medical equipment supplier who receives a license pursuant to section 321-C. The license fee collected shall be deposited into the office of health care assurance special fund pursuant to section 321-1.4.

**§321-E Exemptions.** Pharmacies licensed pursuant to chapter 461 are exempt from this part.

**§321-F Rules.** The department may adopt rules pursuant to chapter 91 to carry out the purpose of this part.

**§321-G Severability.** If any provision in this part or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the other provisions or application of this part that can be given effect without the invalid provision or application, and to this end the provisions of this part are severable."

SECTION 3. Section 321-1.4, Hawaii Revised Statutes, is amended by amending subsections (a) to (c) to read as follows:

"(a) There is established within the department of health, to be administered by the department of health, the office of health care assurance special fund into which shall be deposited moneys collected under section 321-11.5(b), license fees for the administration of the durable medical equipment supplier license program collected pursuant to section 321-D, and all administrative penalties imposed and collected by the office of health care assurance pursuant to section 321-20.

(b) Moneys in the special fund shall be expended by the department of health:

- (1) To assist in offsetting operating costs and educational program expenses of the department of health's office of health care assurance; and
- (2) For the purpose of enhancing the capacity of office of health care assurance programs to:
  - (A) Improve public health outreach efforts, program and community development, and consultations to industries regulated; ~~and~~
  - (B) Educate the public, the staff of the department of health, ~~and~~ other departments within the State, as well as staff and providers of all health care facilities and agencies regulated; ~~and~~
  - (C) Administer and support the durable medical equipment supplier license program established pursuant to part

Not more than ~~[\$300,000]~~ \$327,000 of the special fund may be used during any fiscal year for the activities carried out by the office of health care assurance.

(c) Any amount in the special fund in excess of ~~[\$356,000]~~ \$387,500 on June 30 of each year shall be deposited into the general fund."

SECTION 4. Section 26H-6, Hawaii Revised Statutes, shall not apply to this Act.

SECTION 5. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on January 1, 2017.

(Approved June 29, 2016.)

## ACT 138

H.B. NO. 1878

A Bill for an Act Relating to Aging.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I

SECTION 1. The legislature finds that aging and disability resource centers help older adults, individuals with disabilities, and family caregivers find options for long-term supports and services available to them in the State. The aging and disability resource centers utilize a person-centered process intended to navigate and streamline access to supports and services. The legislature additionally finds that proper funding for the aging and disability resource centers is essential to ensure that these centers provide effective single points of entry for individuals seeking information about appropriate long-term care options. Ensuring the availability of services once a consumer receives a referral, such as those offered through the kupuna care program, is also critical to the success of the aging and disability resource centers.

Furthermore, aging and disability resource centers are operated by the area agencies on aging in each county. The executive office on aging is responsi-

ble to ensure that referrals and services are provided in a prompt and responsive manner and that the aging and disability resource centers staff have the appropriate skills and training to respond to kupuna and caregivers' needs.

SECTION 2. The executive office on aging shall develop a system of evaluation to determine the effectiveness of the aging and disability resource centers in each county to ensure alignment with federal guidance on the criteria for a full-functioning aging and disability resource center. Measures shall include, but not be limited to: timeliness of response by the aging and disability resource center; caller satisfaction; and number and percentage of kupuna and caregivers who are linked to a service or resource as a result of contact with an aging and disability resource center.

The executive office on aging shall submit a report of its evaluation findings to the legislature no later than sixty days prior to the convening of the regular sessions of 2017 and 2018.

SECTION 3. The executive office on aging shall also submit a progress report to the legislature no later than sixty days prior to the convening of the regular sessions of 2017 and 2018 on its implementation of the federal No Wrong Door/aging and disability resource center network implementation grant it received in 2015.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,700,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the aging and disability resource centers.

The sum appropriated shall be expended by the department of health for the purposes of this part.

## PART II

SECTION 5. The legislature finds that every year in Hawaii, on average eighty-five seniors die, 1,960 are hospitalized, and 8,700 are treated in emergency departments as a result of falls. Falls among the elderly also result in almost \$1,200,000 in hospital and physician charges. In recognition of this critical public health issue, Act 153, Session Laws of Hawaii 2014, established a fall prevention and early detection services coordinator position within the department of health's emergency medical services and injury prevention system branch. This position enables the department of health to support a coordinated statewide approach to prevent and reduce the impact of falls among older adults. Act 153 funded a new position for a fall prevention and early detection coordinator for fiscal year 2014 to 2015.

The legislature further finds that access to fall prevention services and programs would significantly reduce costs associated with falls in the elderly by expediting treatment, minimizing serious long-term consequences, reducing the extent of the injury, and in some instances, avoiding death.

Falls among the elderly are a significant public health issue. Yet, currently, there are insufficient resources to develop a coordinated statewide approach to reduce and promptly detect falls among the elderly. The program serves as a focal point for statewide injury prevention and detection efforts to ensure multidisciplinary support, coordination of prevention and detection efforts, and continuity of implementation and accountability.

The purpose of this part is to assure a continued focus on fall prevention in Hawaii, which will ultimately result in longer, healthier lives for the State's aging population.



SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$32,000 or so much thereof as may be necessary for fiscal year 2016-2017 for fall prevention and early detection services for the elderly.

The sum appropriated shall be expended by the department of health for the purposes of this part.

### PART III

SECTION 7. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

## ACT 139

H.B. NO. 2482

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The department of health and the state health planning and development agency is tasked with promoting accessibility to quality health care services for all people of the State at a reasonable cost.

The legislature finds that health care payers collect and analyze health care services claims and payment information for federal regulatory compliance and business accounting purposes. Reporting health care services claims and payment information to the state health planning and development agency would support collection, analysis, and dissemination of medical treatment claims and payment information, lend transparency to the health care sector, and support public policy decision making. The legislature believes that consumers of health care and state decision makers who regulate health care and insurance should have access to health care claims payment data and analytics. Access to such data will benefit members and retirants under the Hawaii employee-union health benefits trust fund, as well as medicaid and medicare recipients, and will serve other public purposes.

The purpose of this Act is to facilitate greater transparency in the health care sector by broadening the scope of health and health care data and other information, including certain health care services claims and payment information, submitted to the state health planning and development agency.

SECTION 2. Section 323D-18.5, Hawaii Revised Statutes, is amended to read as follows:

**“[§323D-18.5] Information from providers of health insurance; Access to health and dental insurance data; mandatory reporting for certain insurers; uses; confidentiality. [The state agency may request providers] (a) Providers of health insurance doing business in the State [to] and who are not subject to subsection (b) may submit to the state agency [available statistical, financial, and other reports of information] or its designee, upon request of the state agency, administrative data that the state agency [finds] deems necessary to perform its functions. (b) Beginning November 1, 2016, providers of health insurance that provide health benefit plans funded by the Hawaii employer-union health benefits trust fund, the state medicaid agency, or both, shall provide to the state agency, or its designee, administrative data required by the state agency to determine health benefits costs, including health care services claims and payment data**

regarding beneficiaries of health benefits plans funded by the Hawaii employer-union health benefits trust fund, the state medicaid agency, or both.

(c) The state agency shall submit data collected pursuant to this section to the college of social sciences, social sciences research institute, pacific health informatics and data center at the University of Hawaii for processing, assignment of encrypted identifiers, and any other task deemed necessary by the state agency. After July 1, 2018, the state agency may designate another data center to which to submit the data obtained pursuant to this section; provided that the data center is established under and meets the conflict of interest requirements of 42 United States Code section 300gg-94. The state agency may contract with entities for the analysis of data collected under this section and processed by a data center pursuant to this subsection to benefit medicaid and medicare recipients, public employees, and public sector retirees and for other public purposes.

(d) The state agency shall develop and update an annual plan for the analysis, maintenance, and publication of data collected pursuant to this section. The state agency shall seek approval for the annual plan from the director of health, administrator of the MedQuest division of the department of human services, and the chief information officer of the State.

(e) The state agency shall adopt rules, pursuant to chapter 91, for the schedule and frequency with which providers of health insurance shall provide administrative data to the state agency. Administrative rules shall also include provisions relating to data governance, data submission, use and sharing, information security, privacy protection, reporting, and any other matter necessary for the state agency to perform its functions under this section. In adopting administrative rules, the state agency shall consider the measures necessary to implement data submission requirements by providers of health insurance subject to this section, using methods that are reasonable and cost-effective for data submitters.

(f) The state agency or its designee shall not disclose any individual patient's personal health information in violation of state or federal law.

(g) To minimize any risk of data breaches and re-identification of data, the data and information submitted to the state agency shall include only the minimum protected health information identifiers necessary to link public and private data sources and the geographic and services data to undertake studies.

(h) The state agency or its designee, and any recipient of data collected pursuant to this section, shall maintain the original protected health information identifier in a separate database that is not linked with any other data and shall use a proxy or encrypted record identifier for data analysis.

(i) Under no circumstances shall a person attempt to re-identify subjects of protected health information from the data submitted to the state agency or its designee. No person may disclose data that contains direct personal identifiers, including but not limited to name, mailing address, email, telephone number, date of birth, or social security number.

(j) The state agency or its designee may acquire federal Medicare data sets specific to Hawaii and made available to states. Any public agency that possesses Medicare data sets specific to Hawaii shall share the data with the state agency or its designee at no additional cost to the state agency or its designee.

(k) No later than twenty days prior to the convening of each regular session, the state agency shall submit an annual report to the legislature on the submission, maintenance, and use of data submitted to the state agency pursuant to this section.

(l) For the purposes of this section:

"Administrative data" means:

(1) Statistical and financial reports of information;

- (2) Patient invoices or similar patient encounter data;
- (3) Records of services used for or resulting from administering delivery of health care, pharmacy benefits, or dental care, including records of services provided under health benefits plans as defined in section 87A-1; and
- (4) Any other records as established pursuant to administrative rules adopted pursuant to chapter 91.

“Provider of health insurance” means a group health insurance contract or service agreement that may include medical, hospital, surgical, prescription drug, vision, or dental services, in which a carrier agrees to provide, pay for, arrange for, or reimburse the cost of the services, including third party administrators.”

SECTION 3. The state health planning and development agency, without regard to the notice and public hearing requirements of chapter 91, Hawaii Revised Statutes, shall adopt interim rules for the schedule and frequency with which providers of health insurance, dental insurance, and health benefits plans shall provide administrative data to the state health planning and development agency. Interim administrative rules shall also include provisions relating to data governance, data submission, use and sharing, information security, privacy protection, reporting, and any other matter necessary for the state health planning and development agency to perform its functions pursuant to this Act. Interim rules adopted pursuant to this Act shall remain in effect until June 30, 2017, or until rules are adopted pursuant to section 323D-18.5(e), Hawaii Revised Statutes, to replace the interim rule or rules.

SECTION 4. No later than twenty days prior to the convening of the regular sessions of 2017 and 2018, the state health planning and development agency shall submit a report to the legislature that includes:

- (1) Information on the progress of establishing procedures for submitting data pursuant to this Act;
- (2) The means of financing, use, and status of any state or federal moneys received for the purposes of establishing or contracting the services of a data center to collect and process data submitted pursuant to this Act; and
- (3) The means of financing, use, and status of any state or federal moneys received for the purposes of contracting the services of private entities to analyze data submitted pursuant to this Act.

SECTION 5. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

## ACT 140

S.B. NO. 2853

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

## PART I

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new article to be appropriately designated and to read as follows:

**“ARTICLE  
RISK MANAGEMENT AND OWN RISK AND SOLVENCY  
ASSESSMENT**

**§431: -101 Scope and purpose.** (a) This article shall apply to all insurers domiciled in this State unless exempt pursuant to section 431: -106.

(b) The purposes of this article shall be to:

- (1) Provide the requirements for maintaining a risk management framework and completing an own risk and solvency assessment; and
- (2) Provide guidance and instructions for filing an own risk and solvency assessment summary report with the commissioner.

**§431: -102 Definitions.** As used in this article:

“Insurance group” means those insurers and affiliates included within an insurance holding company system as defined in article 11.

“Insurer” shall have the same meaning as set forth in article 1, except that it shall not include:

- (1) Agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state;
- (2) Fraternal benefit societies;
- (3) Nonprofit medical and hospital service associations that are exempt from state and federal income taxes; or
- (4) Unauthorized insurers.

“Own risk and solvency assessment” means a confidential internal assessment, appropriate to the nature, scale, and complexity of an insurer or insurance group and conducted by that insurer or insurance group, of the material and relevant risks associated with the insurer or insurance group’s current business plan and the sufficiency of capital resources to support those risks.

“Own Risk and Solvency Assessment Guidance Manual” means the Own Risk and Solvency Assessment Guidance Manual as developed and adopted by the National Association of Insurance Commissioners and as amended from time to time. A change in the Own Risk and Solvency Assessment Guidance Manual shall take effect on the January 1 following the calendar year in which the changes have been adopted by the National Association of Insurance Commissioners.

“Own risk and solvency assessment summary report” means a confidential, high-level summary of an insurer or insurance group’s own risk and solvency assessment.

**§431: -103 Risk management framework.** An insurer shall maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing, and reporting its material and relevant risks. This re-

quirement may be satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.

**§431: -104 Own risk and solvency assessment requirement.** Subject to section 431: -106, an insurer or the insurance group of which the insurer is a member shall regularly conduct an own risk and solvency assessment consistent with a process comparable to the Own Risk and Solvency Assessment Guidance Manual. The own risk and solvency assessment shall be conducted no less than annually but also at any time when there are significant changes to the risk profile of the insurer or the insurance group of which the insurer is a member.

**§431: -105 Own risk and solvency assessment summary report.** (a) Upon the commissioner's request, and no more than once each year beginning in 2018, an insurer shall submit to the commissioner an own risk and solvency assessment summary report or any combination of reports that together contain the information described in the Own Risk and Solvency Assessment Guidance Manual, which is applicable to the insurer, the insurance group of which it is a member, or both.

(b) Notwithstanding any request from the commissioner, if the insurer is a member of an insurance group, the insurer shall submit any reports required by this section if the commissioner is the lead state commissioner of the insurance group as determined by the procedures in the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners.

(c) Any reports filed pursuant to this section shall include a signature of the insurance group's chief risk officer or another executive responsible for the oversight of the insurer's enterprise risk management process attesting, to the best of the person's belief and knowledge, that:

- (1) The insurer applies the enterprise risk management process described in the own risk and solvency assessment summary report; and
- (2) A copy of the report has been provided to the insurer's board of directors or the appropriate committee thereof.

(d) An insurer may comply with subsection (a) by providing the most recent and substantially similar report, which is provided by the insurer or another member of an insurance group of which the insurer is a member, or any combination of reports that together contain the information described in the Own Risk and Solvency Assessment Guidance Manual, to the commissioner of another state or a supervisor or regulator of a foreign jurisdiction if that report provides information comparable to that described in the Own Risk and Solvency Assessment Guidance Manual. Any such report in a language other than English must be accompanied by a translation of that report into the English language.

**§431: -106 Exemption.** (a) An insurer shall be exempt from the requirements of this article if:

- (1) The insurer's annual direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and National Flood Insurance Program, is less than \$500,000,000; and
- (2) The insurance group of which the insurer is a member has an annual direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and National Flood Insurance Program, less than \$1,000,000,000.

(b) If an insurer qualifies for exemption pursuant to subsection (a)(1), but the insurance group of which the insurer is a member does not qualify for exemption pursuant to subsection (a)(2), then the own risk and solvency assessment summary report required pursuant to section 431: -105 shall include every insurer within the insurance group. This requirement may be satisfied by the submission of more than one own risk and solvency assessment summary report for any combination of insurers; provided that any combination of reports includes every insurer within the insurance group.

(c) If an insurer does not qualify for exemption pursuant to subsection (a)(1), but the insurance group of which it is a member qualifies for exemption pursuant to subsection (a)(2), then the only own risk and solvency assessment summary report required pursuant to section 431: -105 shall be the report applicable to that insurer.

(d) An insurer that does not qualify for exemption pursuant to subsection (a) may apply to the commissioner for a waiver from the requirements of this article based upon unique circumstances.

(1) In deciding whether to grant the insurer's request for waiver, the commissioner may consider:

- (A) The type and volume of business written;
- (B) The ownership and organizational structure; and
- (C) Any other factor the commissioner considers relevant to the insurer or insurance group of which the insurer is a member.

(2) If the insurer is part of an insurance group with insurers domiciled in more than one state, the commissioner shall coordinate with the lead state commissioner and other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.

(e) Notwithstanding the exemptions stated in this section:

(1) The commissioner may require that an insurer maintain a risk management framework, conduct an own risk and solvency assessment, and file an own risk and solvency assessment summary report based upon unique circumstances including but not limited to the type and volume of business written, the ownership and organizational structure, federal agency requests, and international supervisor requests.

(2) The commissioner may require that an insurer maintain a risk management framework, conduct an own risk and solvency assessment, and file an own risk and solvency assessment summary report if the insurer:

- (A) Has risk-based capital for company action level event as set forth in section 431:3-403;
- (B) Meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in section 431:15-103.5; or
- (C) Otherwise exhibits qualities of a troubled insurer as determined by the commissioner.

(f) If an insurer that qualifies for an exemption pursuant to subsection (a) subsequently no longer qualifies for that exemption due to changes in premium, as reflected in the insurer's most recent annual statement or in the most recent annual statements of the insurers within the insurance group of which the insurer is a member, the insurer shall have one year following the year the threshold is exceeded to comply with the requirements of this article.

**§431: -107 Contents of own risk and solvency assessment summary report.** (a) The own risk and solvency assessment summary report shall be prepared

consistent with the Own Risk and Solvency Assessment Guidance Manual and subject to the requirements of subsection (b). Documentation and supporting information shall be maintained and made available upon examination or upon request of the commissioner.

(b) The review of the own risk and solvency assessment summary report and any additional requests for information shall be made using similar procedures currently used in the analysis and examination of multi-state or global insurers and insurance groups.

**§431: -108 Confidentiality.** (a) Documents, materials, or other information, including the own risk and solvency assessment summary report, in the possession or control of the commissioner that are obtained by, created by, or disclosed to the commissioner or any other person under this article are recognized as proprietary and containing trade secrets.

All such documents, materials, or other information shall be confidential by law and privileged, shall not be disclosable under chapter 92F, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

The commissioner is authorized to use the documents, materials, or other information to further any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials, or other information public without prior written consent of the insurer.

(b) Neither the commissioner nor any person who received documents, materials, or other own risk and solvency assessment information through examination or otherwise, while acting under the authority of the commissioner or with whom such documents, materials, or other information are shared pursuant to this article, shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a).

(c) To assist in performing the commissioner's regulatory duties, the commissioner:

(1) May, upon request, share information subject to subsection (a) and proprietary and trade secret documents with:

(A) Other state, federal, and international financial regulatory agencies; and

(B) Members of any supervisory college referred to in section 431:11-107.5, the National Association of Insurance Commissioners, and any third-party consultants designated by the commissioner;

provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the own risk and solvency assessment documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality;

(2) May receive information subject to subsection (a) and proprietary and trade secret documents from regulatory officials of other foreign or domestic jurisdictions, including members of any supervisory college referred to in section 431:11-107.5, and the National Association of Insurance Commissioners. The commissioner shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

- (3) Shall enter into a written agreement with the National Association of Insurance Commissioners or a third-party consultant governing sharing and use of information provided pursuant to this article and consistent with this subsection, which shall:

- (A) Specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners or a third-party consultant pursuant to this article, including procedures and protocols for sharing by the National Association of Insurance Commissioners with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees to maintain the confidentiality and privileged status of the own risk and solvency assessment documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality;
- (B) Specify that ownership of information shared with the National Association of Insurance Commissioners or a third-party consultant pursuant to this article remains with the commissioner and that use of the information by the National Association of Insurance Commissioners or a third-party consultant is subject to the direction of the commissioner;
- (C) Prohibit the National Association of Insurance Commissioners or third-party consultant from storing the information shared pursuant to this article in a permanent database after the underlying analysis is completed;
- (D) Require prompt notice to be given to an insurer whose confidential information in the possession of the National Association of Insurance Commissioners or a third-party consultant pursuant to this article is subject to a request or subpoena to the National Association of Insurance Commissioners or a third-party consultant for disclosure or production;
- (E) Require the National Association of Insurance Commissioners or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners or a third-party consultant may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners or a third-party consultant pursuant to this article; and
- (F) In the case of an agreement involving a third-party consultant, provide for the insurer's written consent.

(d) The sharing of information and documents by the commissioner pursuant to this article shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this article.

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary, and trade secret materials or other own risk and solvency assessment information shall occur as a result of disclosing any own risk and solvency assessment information or documents to the commissioner pursuant to this section or as a result of sharing as authorized in this article.

(f) Documents, materials, or other information in the possession or control of the National Association of Insurance Commissioners or a third-party consultant pursuant to this article shall be confidential by law and privileged,



shall not be subject to chapter 92F, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

**§431: -109 Sanctions.** (a) Any insurer failing without just cause to timely file the own risk and solvency assessment summary report as required in this article shall be required after notice and hearing to pay a penalty of not less than \$100 and not more than \$500 for each day's delay, which shall be recovered by the commissioner. Any penalty recovered pursuant to this section shall be paid into the compliance resolution fund.

(b) The maximum penalty under this section is \$50,000. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that imposing the penalty would constitute a financial hardship to the insurer.

**§431: -110 Severability.** If any provision of this article or its application to any person or circumstance is held invalid, that determination shall not affect the provisions or applications of this article that can be given effect without the invalid provision or application, and to that end, the provisions of this article are severable."

## PART II

SECTION 2. Section 431:19-115, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Sections 431:3-302 to 431:3-304.5, 431:3-307, 431:3-401 to [431:3-408,] 431:3-409, 431:3-411, 431:3-412, and 431:3-414; articles 1, 2, 4A, 5, 6, 9A, 9B, 9C, 11, 11A, and 15; and chapter 431K shall apply to risk retention captive insurance companies."

## PART III

SECTION 3. Section 431K-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

"Board of directors" or "board" means the governing body of the risk retention group elected by the shareholders or members to establish policy, elect or appoint officers and committees, and make other governing decisions.

"Director" means a natural person designated in the articles of the risk retention group or designated, elected, or appointed by any other manner, name, or title to act as a director."

SECTION 4. Section 431K-2, Hawaii Revised Statutes, is amended to read as follows:

**"[§431K-2] Risk retention groups chartered in this State.** (a) A risk retention group seeking to be chartered in this State shall be chartered and licensed as a liability insurance company authorized by the insurance laws of this State and, except as provided elsewhere in this chapter, shall comply with all of the laws, rules, and requirements applicable to these insurers chartered and licensed in this State and with section 431K-3, to the extent these requirements are not a limitation on the laws, rules, or requirements of this State. Prior to offering insurance in any state, each risk retention group shall also submit for approval to the commissioner [of this State] a plan of operation or [a] feasibility study and revisions of such plan or study if the group intends to offer any additional lines of liability insurance. Immediately upon receipt of an application for charter, the commissioner shall provide summary information concerning the filing to the National Association of Insurance Commissioners, including:

- (1) The name of the risk retention group;
- (2) The identity of the initial members of the group;
- (3) The identity of those individuals who organized the group or who will provide administrative services or otherwise influence or control the activities of the group;
- (4) The amount and nature of initial capitalization;
- (5) The coverages to be afforded; and
- (6) The states in which the group intends to operate.

Providing notification to the National Association of Insurance Commissioners is in addition to and shall not be sufficient to satisfy the requirements of section 431K-3 or any other sections of this chapter.

(b) New risk retention groups established on or after July 1, 2016, shall be in compliance with the governance standards set forth in subsection (c).

(c) By July 1, 2017, existing risk retention groups shall be in compliance with the following:

- (1) The board shall have a majority of independent directors. The board of directors shall: determine whether a director is independent and has no material relationship with the risk retention group; review such determination annually; and maintain a record of the determinations, which shall be provided to the commissioner annually. If the risk retention group is reciprocal, then the attorney-in-fact shall be required to adhere to the same standards regarding independence of operation and governance as imposed on the risk retention group's board of directors and subscribers advisory committee.
- (2) The term of any material service provider contract entered into with a risk retention group shall not exceed five years. The contract or its renewal requires approval of a majority of the risk retention group's independent directors. The board of directors has the right to terminate a contract at any time for cause after providing adequate notice as defined in the terms of the contract. Service providers of a reciprocal risk retention group shall contract with the risk retention group.
- (3) A risk retention group shall not enter into a material service provider contract without the prior written approval of the commissioner.
- (4) A risk retention group's plan of operation shall include written policies approved by its board of directors requiring the board to:
  - (A) Provide evidence of ownership interest to each risk retention group member;
  - (B) Develop governance standards applicable to the risk retention group;
  - (C) Oversee the evaluation of the risk retention group's management, including the performance of its captive manager, managing general underwriter, or any other person responsible for underwriting, rate determination, premium collection, claims adjustment and settlement, or preparation of financial statements;
  - (D) Review and approve the amount to be paid under a material service provider contract; and
  - (E) Review and approve at least annually:
    - (i) The risk retention group's goals and objectives relevant to the compensation of officers and service providers;
    - (ii) The performance of officers and service providers as measured against the risk retention group's goals and objectives; and

- (iii) The continued engagement of officers and material service providers.
- (5) A risk retention group shall have an audit committee composed of at least three independent board members. A nonindependent board member may participate in the committee's activities if invited to do so by the audit committee, but a nonindependent board member shall not serve as a committee member. The commissioner may waive the requirement of an audit committee if the risk retention group demonstrates to the commissioner's satisfaction that having such committee is impracticable and that the board of directors itself is able to sufficiently perform the committee's responsibilities. The audit committee shall have a written charter defining its responsibilities, which shall include:
  - (A) Assisting board oversight of the integrity of financial statements, compliance with legal and regulatory requirements, and qualifications, independence, and performance of the independent auditor or actuary;
  - (B) Reviewing annual audited financial statements and quarterly financial statements with management;
  - (C) Reviewing annual audited financial statements with its independent auditor and, if deemed advisable, the risk retention group's quarterly financial statements;
  - (D) Reviewing risk assessment and risk management policies;
  - (E) Meeting with management, either directly or through a designated representative of the committee;
  - (F) Meeting with independent auditors, either directly or through a designated representative of the committee;
  - (G) Reviewing with the independent auditor any audit problems and management's response;
  - (H) Establishing clear hiring policies applicable to the hiring of employees or former employees of the independent auditor by the risk retention group;
  - (I) Requiring the independent auditor to rotate the lead audit partner having primary responsibility for the risk retention group's audit, as well as the audit partner responsible for reviewing that audit, so that neither individual performs audit services for the risk retention group for more than five consecutive fiscal years; and
  - (J) Reporting regularly to the board of directors.
- (6) The board of directors shall adopt governance standards, which shall be available to risk retention group members through electronic or other means and, upon request, provided to risk retention group members. The governance standards shall include:
  - (A) A process by which risk retention group members elect directors;
  - (B) Director qualifications, responsibilities, and compensation;
  - (C) Director orientation and continuing education requirements;
  - (D) A process allowing the board access to management and, as necessary and appropriate, independent advisors;
  - (E) Policies and procedures for management succession; and
  - (F) Policies and procedures providing for an annual performance evaluation of the board.
- (7) The board of directors shall adopt a code of business conduct and ethics applicable to directors, officers, and employees of the risk re-

tention group and disclose criteria for waivers of code provisions to the board of directors, which shall be available to risk retention group members through electronic or other means and, upon request, provided to risk retention group members. Provisions of the code shall address:

- (A) Conflicts of interest;
  - (B) Matters covered under the Hawaii corporate opportunities doctrine;
  - (C) Confidentiality;
  - (D) Fair dealing;
  - (E) Protection and proper use of risk retention group assets;
  - (F) Standards for complying with applicable laws, rules, and regulations; and
  - (G) Mandatory reporting of illegal or unethical behavior affecting the operation of the risk retention group.
- (8) The captive manager, president, or chief executive officer of a risk retention group shall promptly notify the commissioner in writing of any known noncompliance with the governance standards established in this subsection.

(d) For the purposes of this section:

"Independent director" means a director who does not have a material relationship with the risk retention group. A person who is a direct or an indirect owner of or subscriber in the risk retention group, as referenced in the definition of "risk retention group" in section 431K-1, or who is an officer, a director, or an employee of the owner and insured unless some other position of the officer, director, or employee constitutes a "material relationship", is considered independent. The commissioner shall have the authority to determine whether or not a director is independent.

A director has a "material relationship" with a risk retention group if the director or a member of the director's immediate family:

- (1) Receives in any twelve-month period from the risk retention group or a consultant or service provider to the risk retention group compensation or other item of value in an amount equal to or greater than five per cent of the risk retention group's gross written premium or two per cent of the risk retention group's surplus as measured at the end of any fiscal quarter falling in the twelve-month period, whichever is greater. This provision also applies to compensation or items of value received by any business with which the director or a member of the director's immediate family is affiliated. The material relationship shall be deemed to exist for one year after the item of value is received or the compensation ceases or falls below the threshold established in this paragraph, as applicable;
- (2) Is affiliated with or employed in a professional capacity by a current or former internal or external auditor of the risk retention group. The material relationship shall be deemed to exist for one year after the affiliation, employment, or audit ends; or
- (3) Is employed as an executive officer of another company whose board of directors includes executive officers of the risk retention group unless a majority of the membership of the other company's board of directors is the same as the membership of the board of directors of the risk retention group. The material relationship shall be deemed to exist for one year after the employment or service ends.

“Material service provider” includes a captive manager, auditor, accountant, actuary, investment advisor, attorney, managing general underwriter, or other person responsible for underwriting, determination of rates, premium collection, claims adjustment or settlement, or preparation of financial statements, whose aggregate annual contract fees are equal to or greater than five per cent of the risk retention group’s annual gross written premium or two per cent of its surplus, whichever is greater. “Material service provider” does not mean defense counsel retained by a risk retention group unless the counsel’s annual fees are equal to or greater than five per cent of a risk retention group’s annual gross written premium or two per cent of its surplus, whichever is greater.”

#### PART IV

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 29, 2016.)

### ACT 141

S.B. NO. 2854

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new part to article 10E to be appropriately designated and to read as follows:

#### “PART . COVERAGES

**§431:10E- Notice requirement.** Thirteen months prior to discontinuation of writing property insurance coverage, an insurer shall file an affidavit with the commissioner stating the reasons for the discontinuation.

**§431:10E- Extended coverage.** Insurers seeking to provide multi-peril coverage for residential property after July 1, 2016, shall submit to the commissioner a written request for permission to write the coverage. The commissioner may disapprove the request. If the request is disapproved, the insurer shall not write the coverage.”

SECTION 2. Section 431:2D-107, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

- “(g)(1) Except as provided in subsections (h) and (i), an insurance compliance self-evaluative audit is privileged information and is not discoverable or admissible as evidence in any legal action in any civil, criminal, or administrative proceeding. The privilege created herein is a matter of substantive law of this State and is not merely a procedural matter governing civil or criminal procedures in the courts of this State;
- (2) If any company, person, or entity performs or directs the performance of an insurance compliance audit, an officer, employee, or agent involved with the insurance audit, or any consultant who is

hired for the purpose of performing the insurance compliance audit may not be examined in any civil, criminal, or administrative proceeding as to the insurance compliance audit or any insurance compliance self-evaluative audit document, as defined in this section. This subsection does not apply if the privilege set forth in ~~[subsection (g)(1) of this section]~~ paragraph (1) is determined under subsection (h) or (i) not to apply;

- (3) A company may voluntarily submit, in connection with examinations conducted under this article, an insurance compliance self-evaluative audit document to the commissioner or the commissioner's designee, as a confidential document under this section without waiving the privilege set forth in this section to which the company would otherwise be entitled; provided~~[-however,]~~ that the provisions in this section permitting the commissioner to make confidential documents public pursuant to this section and access to the National Association of Insurance Commissioners shall not apply to the insurance compliance self-evaluative audit document under other provisions of applicable law, any such report furnished to the commissioner shall not be provided to any other persons or ~~[[entities]]~~ and shall be accorded the same confidentiality and other protections as provided above for voluntarily submitted documents. Any use of an insurance compliance self-evaluative audit document ~~[furnished as a result of the]~~ shall be limited to determining whether or not any disclosed defects in an insurer's policies and procedures or inappropriate treatment of customers has been remedied or that an appropriate ~~[plan for their]~~ remedy is in place.

A company's insurance compliance self-evaluative audit document submitted to the commissioner shall remain subject to all applicable statutory or common law privileges including, but not limited to, the work product doctrine, attorney-client privilege, or the subsequent remedial measures exclusion.

Any compliance self-evaluative audit document so submitted and in the possession of the commissioner shall remain the property of the company and shall not be subject to any disclosure or production under chapter ~~[92;]~~ 92F.

- (4) Disclosure of an insurance compliance self-evaluative audit document to a governmental agency, whether voluntary or pursuant to compulsion of law, shall not constitute a waiver of the privilege set forth in ~~[subsection (g)(1)]~~ paragraph (1) with respect to any other persons or any other governmental agencies."

SECTION 3. Section 431:7-201, Hawaii Revised Statutes, is amended to read as follows:

**"§431:7-201 Annual and monthly tax statements.** (a) Each authorized insurer shall electronically file with the commissioner annually, on or before March 1 in each year, a statement signed by a duly authorized person on its behalf, setting forth the total business transacted, and the amount of gross premiums reported by the insurer, pursuant to section 431:7-202, during the year ending on the preceding December 31, from all risks or property resident, situated, or located within this State, together with such other information as may be required by the commissioner to determine the taxability of premiums. The term "gross premiums" as used in this part shall not include consideration paid for annuities.

(b) Each authorized insurer shall electronically file with the commissioner monthly, on or before the twentieth day of the calendar month following the month in which the taxes accrue, a statement signed by a duly authorized person on its behalf, setting forth the total business transacted and the amount of gross premiums reported by the insurer, pursuant to section 431:7-202, during the month from all risks or property resident, situated, or located within this State, together with other information as may be required by the commissioner to determine the taxability of premiums.

(c) Any insurer failing or refusing to electronically file the annual tax statement on or before March 1, or the monthly statement on or before the twentieth day of the calendar month following the month in which the taxes accrue, shall be liable for a fine in an amount not less than \$100 and not more than \$500 for each day of delinquency."

SECTION 4. Section 431:7-202, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) The taxes imposed by subsections (a), (b), (c), and (d) shall be paid monthly. The monthly tax shall be due and payable by electronic payment via the Automated Clearing House debit or credit payment system on or before the twentieth day of the calendar month following the month in which it accrues, coinciding with the filing of the statement provided for in section 431:7-201.

In addition to the monthly tax and monthly tax statement, the annual tax shall be due and payable by electronic payment via the Automated Clearing House debit or credit payment system on or before March 1 coinciding with the filing of the statement provided for in section 431:7-201.

All amounts paid under this subsection, other than fines, shall be allowed as a credit on the annual tax imposed by subsections (a), (b), (c), and (d).

If the total amount of installment payments for any calendar year exceeds the amount of annual tax for that year, the excess shall be treated as an overpayment of the annual tax and be allowed as a refund under section 431:7-203.

Any insurer failing or refusing to pay the required taxes above stated when due and payable shall be liable for a fine of \$500 or ten per cent of the tax due, whichever is greater; plus interest at a rate of twelve per cent per annum on the delinquent taxes. The taxes may be collected by distraint, or the taxes, fine, and interest may be recovered by an action to be instituted by the commissioner in the name of this State, in any court of competent jurisdiction. The commissioner may suspend the certificate of authority of the delinquent insurer until the taxes, fine, and interest, should any be imposed, are fully paid.

As used in this subsection, "Automated Clearing House debit or credit payment system" means the network for the interbank clearing of electronic payments for participating depository financial institutions."

SECTION 5. Section 431:10-104, Hawaii Revised Statutes, is amended to read as follows:

**"§431:10-104 General readability requirements.** In addition to any other requirements of law, no contract shall be delivered or issued for delivery in this State unless:

- (1) The text is in plain language, achieving a minimum score of forty on the Flesch reading ease test or an equivalent score on any other comparable test prescribed by the commissioner under section 431:10-105(a);
- (2) The contract is printed, except for specification pages, schedules, and tables, in not less than ten point type, one point leaded;

- (3) The style, arrangement, and general appearance of the contract ~~[gives]~~ give no undue prominence to any endorsements, riders, or other portions of the text; ~~[and]~~
- (4) A table of contents or index of principal sections is provided with the contract when the text consists of more than three thousand words printed on three or less pages or when the text has more than three pages regardless of the total number of printed words[-]; and
- (5) For any short-term health insurance policies that impose preexisting conditions provisions, any policy, application, or sales brochure shall disclose in a conspicuous manner in not less than fourteen point bold face type the following statement:

“THIS POLICY EXCLUDES COVERAGE FOR CONDITIONS FOR WHICH MEDICAL ADVICE, DIAGNOSIS, CARE, OR TREATMENT WAS RECOMMENDED OR RECEIVED DURING THE [insert exclusion period] IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF COVERAGE.””

SECTION 6. Section 431:10A-116.6, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) For purposes of this section:

“Contraceptive services” means physician-delivered, physician-supervised, physician assistant-delivered, ~~[nurse practitioner-delivered, certified nurse midwife-delivered,]~~ advanced practice registered nurse-delivered, nurse-delivered, or pharmacist-delivered medical services intended to promote the effective use of contraceptive supplies or devices to prevent unwanted pregnancy.

“Contraceptive supplies” means all United States Food and Drug Administration-approved contraceptive drugs or devices used to prevent unwanted pregnancy.”

SECTION 7. Section 431:10A-116.7, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) For purposes of this section:

“Contraceptive services” means physician-delivered, physician-supervised, physician assistant-delivered, ~~[nurse practitioner-delivered, certified nurse midwife-delivered,]~~ advanced practice registered nurse-delivered, nurse-delivered, or pharmacist-delivered medical services intended to promote the effective use of contraceptive supplies or devices to prevent unwanted pregnancy.

“Contraceptive supplies” means all United States Food and Drug Administration-approved contraceptive drugs or devices used to prevent unwanted pregnancy.”

SECTION 8. Section 431:10A-206.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read as:

“(a) All accident and health or sickness insurance policies issued in this State~~[-which]~~ that provide coverage for the children of the insured shall provide coverage for child health supervision services from the moment of birth through age five years. These services shall be exempt from any deductible provisions, and immunizations shall be exempt from any copayment provisions, which may be in force in these policies or contracts.”

2. By amending subsection (e) to read:

“(e) For the purposes of this section, “child health supervision services” means physician-delivered, physician-supervised, physician assistant-delivered, or nurse-delivered services as defined by section 457-2 (“registered nurse”),



which shall include as the minimum benefit coverage for services delivered at intervals and scope stated in this section.”

SECTION 9. Section 431:13-108, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) If a claim is contested or denied or requires more time for review by an entity, the entity shall notify the health care provider, insured, or member filing a claim from a non-contracted provider in writing or electronically not more than fifteen calendar days after receiving a claim filed in writing, or not more than seven calendar days after receiving a claim filed electronically, as appropriate. The notice shall identify the contested portion of the claim and the specific reason for contesting or denying the claim, and may request additional information; provided that a notice shall not be required if the entity provides a reimbursement report containing the information, at least monthly, to the health care provider.”

SECTION 10. Section 431:19-304, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§431:19-304]]** **Qualification of sponsors.** A sponsor of a sponsored captive insurance company shall be an insurer licensed under laws of any state, a reinsurer authorized or approved under the laws of any state, a captive insurance company formed or licensed under this article, or any other person, company, or organization approved by the commissioner in the exercise of the commissioner’s discretion, after finding that the approval of that person, company, or organization as a sponsor is not inconsistent with the purposes of this article. A risk retention group shall not be ~~[either]~~ a sponsor ~~[or a participant]~~ of a sponsored captive insurance company.”

SECTION 11. Section 431:19-305, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Associations, corporations, limited liability companies, partnerships, trusts, risk retention groups, and other business entities may be participants in any sponsored captive insurance company formed or licensed under this chapter.”

SECTION 12. Section 431M-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Licensed dietitian” means a person who uses the title of licensed dietitian or dietitian and has been licensed to practice dietetics under chapter 448B.”

SECTION 13. Section 431M-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Mental illness benefits.

- (1) Covered benefits for mental health services set forth in this subsection shall be limited to coverage for diagnosis and treatment of mental disorders. All mental health services shall be provided under an individualized treatment plan approved by a physician, psychologist, licensed clinical social worker, marriage and family therapist, licensed mental health counselor, ~~[or]~~ advanced practice registered nurse, or licensed dietitian treating eating disorders, and must be reasonably expected to improve the patient’s condition. An individualized treatment plan approved by a licensed clinical social worker, marriage and family therapist, licensed mental health counselor, ~~[or]~~

- ~~an~~ advanced practice registered nurse, or a licensed dietitian treating eating disorders, for a patient already under the care or treatment of a physician or psychologist shall be done in consultation with the physician or psychologist;
- (2) In-hospital and nonhospital residential mental health services as a covered benefit under this chapter shall be provided in a hospital or a nonhospital residential facility. The services to be covered shall include those services required for licensure and accreditation;
  - (3) Mental health partial hospitalization as a covered benefit under this chapter shall be provided by a hospital or a mental health outpatient facility. The services to be covered under this paragraph shall include those services required for licensure and accreditation; and
  - (4) Mental health outpatient services shall be a covered benefit under this chapter."

SECTION 14. Section 431P-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) ~~Upon the authorization of the commissioner, insurers may~~ Insurers seeking to provide ~~[standard-extended]~~ multi-peril coverage ~~[endorsements]~~ for residential property, including multi-peril coverage of the hurricane ~~[risks, peril,~~ subject to the fund's program for incentives and credits~~], shall submit to the commissioner a written request for permission to write the coverage;~~ provided that in the absence of such authorization, no other policy of residential property insurance or endorsement to a policy of residential property insurance on eligible residential property located in this State shall be issued to provide insurance for damages or losses caused by a covered event if such coverage is less than that offered by the fund. If ~~[standard-extended]~~ multi-peril coverage ~~[endorsements]~~ on commercial property ~~[are]~~ is no longer being offered by the fund, any ~~[standard-extended]~~ multi-peril coverage ~~[endorsements]~~ on commercial property offered by an insurer shall qualify as a comparable coverage under section 431P-5(b)(8)(A). ~~[Standard-extended]~~ Multi-peril coverage ~~[endorsements]~~ on residential property which include coverage for hurricane losses offered by an insurer shall qualify as a comparable coverage under section 431P-5(b)(8)(A)."

SECTION 15. Section 431R-5, Hawaii Revised Statutes, is amended to read as follows:

~~"[§431R-5]~~ **Violations; penalties.** (a) The insurance commissioner may assess a fine of up to \$10,000 for each violation by a pharmacy benefit manager or prescription drug benefit plan provider who is in violation of section 431R-2 or 431R-3. In addition, the insurance commissioner may order the pharmacy benefit manager to take specific affirmative corrective action or make restitution.

(b) Failure of a pharmacy benefit manager to comply with a previously agreed upon contractual retail pharmacy network agreement pursuant to section 431R-2 or 431R-3 shall be an unfair or deceptive act or practice as provided in section 431:13-102.

(c) A pharmacy benefit manager or prescription drug benefit plan provider may appeal any decision made by the insurance commissioner in accordance with chapter 91.

(d) Every person and its officers, employees, and representatives subject to investigation or examination by the commissioner under this chapter shall produce and make freely accessible to the commissioner the accounts, records, documents, and files in the person's possession or control relating to the subject

of the investigation or examination and shall otherwise facilitate the investigation or examination.

(e) Every person and its officers, employees, and representatives subject to investigation or examination by the commissioner under this chapter shall issue a written response no later than fifteen working days after receiving a written inquiry from the commissioner regarding a claim or complaint. The response shall be more than an acknowledgment that the commissioner's communication has been received and shall adequately address the concerns stated in the communication."

SECTION 16. Section 432:1-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Article 2, article 2D, parts II and IV of article 3, article 6, part III of article 7, article 9A, article 13, article 14G, and article 15 of chapter 431, sections 431:3-301, 431:3-302, 431:3-303, 431:3-304, 431:3-305, ~~and~~ 431:10-102, 431:10-225, 431:10-226.5, and 431:10A-116(1) and (2), and the powers granted by those provisions to the commissioner, shall apply to managed care plans, health maintenance organizations, or medical indemnity or hospital service associations that are owned or controlled by mutual benefit societies so long as the application in any particular case is in compliance with and is not preempted by applicable federal statutes and regulations."

SECTION 17. Section 432:1-602.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) For the purposes of this section, "child health supervision services" means physician-delivered, physician-supervised, physician assistant-delivered, or nurse-delivered services as defined by section 457-2 ("registered nurse"), which shall include as the minimum benefit coverage for services delivered at intervals and scope stated in this section."

SECTION 18. Section 432:1-604.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) For purposes of this section:

"Contraceptive services" means physician-delivered, physician-supervised, physician assistant-delivered, ~~nurse practitioner-delivered, certified nurse midwife-delivered, or~~ advanced practice registered nurse-delivered, nurse-delivered ~~medical services,~~<sup>1</sup> or pharmacist-delivered medical services intended to promote the effective use of contraceptive supplies or devices to prevent unwanted pregnancy.

"Contraceptive supplies" means all Food and Drug Administration-approved contraceptive drugs or devices used to prevent unwanted pregnancy."

SECTION 19. Section 432D-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In addition to, or in lieu of, suspension or revocation of a certificate of authority pursuant to this section, the commissioner~~[-after hearing,]~~ may levy an administrative fine upon the health maintenance organization in an amount not less than \$500 and not more than \$50,000 pursuant to section 431:3-221."

SECTION 20. Section 432D-19, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Article 2, article 2D, part IV of article 3, article 6, part III of article 7, article 9A, article 13, article 14G, and article 15 of chapter 431, and sections 431:3-301, 431:3-302, 431:3-303, 431:3-304, ~~and~~ 431:3-305, 431:10-225, and

431:10-226.5, and the powers granted by those provisions to the commissioner shall apply to health maintenance organizations, so long as the application in any particular case is in compliance with and is not preempted by applicable federal statutes and regulations.”

SECTION 21. Section 431P-17, Hawaii Revised Statutes, is repealed.

SECTION 22. Statutory material to be repealed is bracketed and stricken.<sup>2</sup> New statutory material is underscored.

SECTION 23. This Act shall take effect on July 1, 2016; provided that sections 3 and 4 shall take effect on January 1, 2017.

(Approved June 29, 2016.)

#### Notes

1. Comma should be underscored.
2. Edited pursuant to HRS §23G-16.5.

## ACT 142

H.B. NO. 2326

A Bill for an Act Relating to Mortgage Rescue Fraud.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 480E, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

**“§480E- Recordkeeping and compliance requirements.** (a) Any distressed property consultant shall keep, for a period of twenty-four months from the date the record is created, the following records:

- (1) All contracts or other agreements between the distressed property consultant and any consumer for any mortgage assistance relief service;
  - (2) Copies of all written communications between the distressed property consultant and the distressed property owner or owners occurring prior to the date on which the property owner or owners entered into an agreement with the distressed property consultant for any mortgage assistance relief service;
  - (3) Copies of all documents or telephone recordings created in connection with compliance with subsection (b);
  - (4) All files containing the distressed property owner’s or owners’ names and phone numbers, dollar amounts paid, and descriptions of mortgage assistance relief services purchased, to the extent the distressed property consultant keeps such information in the ordinary course of business;
  - (5) Copies of all materially different sales scripts, training materials, commercial communications, or other marketing materials, including web sites and weblogs, for any mortgage assistance relief service; and
  - (6) Copies of the documentation provided to the consumer as specified in section 480E-3.
- (b) A distressed property consultant shall also:

- (1) Take reasonable steps sufficient to monitor and ensure that all employees and independent contractors comply with this chapter. Such steps shall include the monitoring of communications directed at specific consumers and shall also include, at a minimum, the following:
    - (A) If the distressed property consultant is engaged in the telemarketing of mortgage assistance relief services, performing random, blind recording and testing of the oral representations made by individuals engaged in sales or other customer service functions;
    - (B) Establishing a procedure for receiving and responding to any and all complaints regarding or relating to the distressed property consultant or mortgage assistance relief service, or both; and
    - (C) Ascertaining the number and nature of any complaints regarding transactions in which any employee or independent contractor, or both, is involved;
  - (2) Investigate promptly and fully each consumer complaint received;
  - (3) Take corrective action with respect to any employee or independent contractor whom the distressed property consultant determines is not complying with this chapter, which action may include training, disciplining, or terminating the individual; and
  - (4) Maintain any information and material necessary to demonstrate the distressed property consultant's compliance with this subsection.
- (c) A distressed property consultant may keep the records required by this section in any form, and in the same manner, format, or place as it keeps such records in the ordinary course of business.

**§480E- Enforcement authority.** The attorney general or the executive director of the office of consumer protection is authorized to investigate reported or suspected violations of the federal mortgage assistance relief services rules, set forth in title 12 Code of Federal Regulations part 1015, and to enforce such rules by bringing civil actions or proceedings.

**§480E- Requirements for attorneys licensed in Hawaii.** An attorney licensed in the State engaged in the practice of law who performs or provides, or attempts to perform or provide, or who arranges for others to perform or provide, or who assists others to perform or provide, or who makes any solicitation, representation, or offer to perform or provide, any mortgage assistance relief service shall:

- (1) Execute a written contract that identifies each mortgage assistance relief service to be provided;
- (2) Maintain a client trust account that complies with all applicable state laws and rules;
- (3) Deposit into the attorney's client trust account all moneys received by or on behalf of the consumer to be provided with any mortgage assistance relief service; and
- (4) Keep and maintain all moneys received in deposit in the client trust account until such time as the attorney has fully performed each service the attorney contracted to perform or represented would be performed."

SECTION 2. Section 480E-1, Hawaii Revised Statutes, is amended to read as follows:

**“[§480E-1] Purpose.** The purpose of this chapter is to protect Hawaii consumers from persons who prey on ~~[homeowners who face property foreclosures, liens, or encumbrances]~~ consumers by offering services that purport to provide relief from consumers' mortgage loan obligations or from other filed or threatened liens or encumbrances against their properties. Consumers who face foreclosures, liens, or encumbrances are often in desperate financial situations that can have severe adverse consequences for individuals and families even if the consumers have significant equity in their residential real property. The consumers' desperation makes them vulnerable to persons who claim they can stop, prevent, or delay foreclosures, liens, or encumbrances~~[-]~~, or claim they can reduce, modify, or eliminate mortgage loan obligations or other filed or threatened liens or encumbrances. Persons who make these claims often use the consumers' desperation to foster unequal bargaining positions and withhold or misrepresent vital information and details. As a result, consumers may be convinced to give up their real property interests and valuable equity to these persons while receiving little in return. Requiring full and complete disclosure of vital information will better enable consumers to make informed decisions when dealing with persons claiming to be able to stop foreclosures, liens, or encumbrances. This ~~[chapter]~~ addresses possible misrepresentations by compelling persons who offer assistance to fully and completely describe their services in written contracts and gives ~~[the homeowners]~~ consumers the right to cancel at any time before a distressed property consultant has performed all services called for in a contract.”

SECTION 3. Section 480E-2, Hawaii Revised Statutes, is amended as follows:

1. By adding nine new definitions to be appropriately inserted and to read:

““Distressed property owner” or “property owner” means the owner of any distressed property.

“Fully performed” means:

- (1) In the case of relief requiring the consent of any lending party, the distressed property consultant or attorney has:
  - (A) Carried out and provided all of the services the distressed property consultant or attorney contracted to perform or represented would be performed; and
  - (B) Obtained from the lending party a written offer for mortgage assistance relief that the consumer has accepted by executing the written contract.
- (2) In the case of relief requiring the consent of any non-lending party, including any person that may hold a lien or encumbrance against any residential real property, the distressed property consultant or attorney has:
  - (A) Carried out and provided all of the services the distressed property consultant or attorney contracted to perform or represented would be performed; and
  - (B) Obtained from the non-lending party a written offer for mortgage assistance relief that the consumer has accepted by executing the written contract.
- (3) In all other cases, being instances where consent is not obtained as the result of a mortgage assistance relief service, the property owner obtains the desired relief from a court of law, which includes a favorable determination that the mortgage assistance relief service conferred a benefit upon the property owner and is therefore compensable.

“Lending party” means the person from whom mortgage assistance relief is sought and includes the residential loan holder or servicer.

“Material” means likely to affect a consumer’s choice of, or conduct regarding, any mortgage assistance relief service.

“Mortgage assistance relief service” means any service, plan, or program that is offered or provided to the consumer in exchange for consideration and is represented, expressly or by implication, to assist or attempt to assist the consumer with any of the following:

- (1) Stopping, preventing, or postponing the loss of any residential real property, whether by mortgage or deed or trust foreclosure sale or repossession, or otherwise saving any consumer’s residential real property from foreclosure or repossession;
- (2) Stopping, preventing, or postponing the charging of any lien or encumbrance against any residential real property or reducing or eliminating any lien or encumbrance charged against any residential real property for the nonpayment of any taxes, lease assessments, association fees, or maintenance fees;
- (3) Saving the owner’s property from foreclosure or loss of home due to nonpayment of taxes;
- (4) Negotiating, obtaining, or arranging any modification of any term of a residential loan, including a reduction in the amount of interest, principal balance, monthly payments, or fees;
- (5) Negotiating, obtaining, or arranging any extension of the period of time within which the consumer may:
  - (A) Cure the default on a residential loan;
  - (B) Reinstate the residential loan;
  - (C) Redeem any residential real property; or
  - (D) Exercise any right to reinstate a residential loan or redeem a residential real property;
- (6) Negotiating, obtaining, or arranging, with respect to any residential real property:
  - (A) A short sale;
  - (B) A deed-in-lieu of foreclosure; or
  - (C) Any other disposition of the property other than a sale to a third party who is not the residential loan holder;
- (7) Obtaining any forbearance or modification in the timing of payments from any residential loan holder or servicer;
- (8) Obtaining any forbearance from any beneficiary or mortgagee, or any relief with respect to a tax sale of any residential real property;
- (9) Obtaining any waiver of an acceleration clause or balloon payment contained in any promissory note or other contract secured by a mortgage on any residential real property or contained in the mortgage;
- (10) Obtaining any extension of the period within which the owner may reinstate the owner’s rights with respect to the owner’s property;
- (11) Obtaining a loan or advance of funds while the consumer is in foreclosure or at risk of foreclosure due to nonpayment of any obligation related to a residential real property, including but not limited to one or more loans, taxes, lease assessments, association fees, or maintenance fees;
- (12) Obtaining a loan or advance of funds during any post-tax sale redemption period;
- (13) Considering or deciding whether a consumer should continue making payments on any loan, taxes, lease assessments, association fees,

- or maintenance fees or any other obligation related to a residential real property;
- (14) Exercising any cure of default;
  - (15) Avoiding or ameliorating the impairment of the property owner's credit resulting from the recording or filing of a notice of default or the conduct of a foreclosure sale or tax sale;
  - (16) Drafting, preparing, performing, creating, or otherwise obtaining a forensic loan audit, a forensic securitization audit, or any other type of audit, report, summary, affidavit, or declaration involving an opinion, determination, or analysis of whether a lending party has an enforceable mortgage or lien, predicated upon claims that a lending party that is a party to a pooling and service agreement failed to adhere to the terms of that agreement, or that errors occurred after the signing of the mortgage loan, or disputing whether the lending party is the holder of the promissory note, or any argument that the lending party has failed to comply with federal or state mortgage lending laws;
  - (17) Drafting, preparing, performing, creating, or otherwise obtaining any documentation used or intended to be used to advance any legal theory in defense of a foreclosure or ejectment action, regardless of any disclaimer as to providing legal advice; or
  - (18) Understanding any legal theory that may be used in defense of a foreclosure or ejectment action, regardless of any disclaimer as to providing legal advice.

"Residential loan" means any loan that is secured by a mortgage against residential real property, regardless of whether the property owner lacks sufficient equity in the property so as to render the loan partially or entirely unsecured.

"Residential loan holder" means any person who holds the residential loan that is the subject of the offer to provide mortgage assistance relief services.

"Residential real property" means any fee simple or leasehold real property wherever located, the primary use of which is occupancy as a residence by any natural person or persons, regardless of whether the property owner resides on the property.

"Servicer" means the person responsible for:

- (1) Receiving any scheduled periodic payments pursuant to the terms of the residential loan that is the subject of the offer to provide mortgage assistance relief services; and
- (2) Making the payments of principal and interest and such other payments with respect to the amounts received from the consumer as may be required pursuant to the terms of the mortgage servicing loan documents or servicing contract."

2. By amending the definition of "distressed property" to read:

"Distressed property" means any residential real property that:

- (1) Is in foreclosure or at risk of foreclosure because payment of any loan that is secured by the residential real property is more than sixty days delinquent;
- (2) Had a lien or encumbrance charged against it because of nonpayment of any taxes, lease assessments, association fees, or maintenance fees;
- (3) Is at risk of having a lien or encumbrance charged against it because the payments of any taxes, lease assessments, association fees, or maintenance fees are more than ninety days delinquent;
- (4) Secures a loan for which a notice of default has been given; [ø]
- (5) Secures a loan that has been accelerated[-]; or



- (6) Is the subject of any solicitation, representation, offer, agreement, promise, or contract to perform any mortgage assistance relief service.”

3. By amending the definition of “distressed property consultant” to read:

““Distressed property consultant” means any person who performs or provides, or attempts to perform or provide, or who arranges for others to perform or provide, or who assists others to perform or provide, or who makes any solicitation, representation, or offer to perform or provide, any [of the following relating to a distressed property:] mortgage assistance relief service.

- (1) ~~Stop or postpone the foreclosure sale or loss of any distressed property due to the nonpayment of any loan that is secured by the distressed property;~~
- (2) ~~Stop or postpone the charging of any lien or encumbrance against any distressed property or eliminate any lien or encumbrance charged against any distressed property for the nonpayment of any taxes, lease assessments, association fees, or maintenance fees;~~
- (3) ~~Obtain any forbearance from any beneficiary or mortgagee, or relief with respect to a tax sale of the property;~~
- (4) ~~Assist the owner to exercise any cure of default arising under Hawaii law;~~
- (5) ~~Obtain any extension of the period within which the owner may reinstate the owner's rights with respect to the property;~~
- (6) ~~Obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a distressed property or contained in the mortgage;~~
- (7) ~~Assist the owner in foreclosure, loan default, or post-tax sale redemption period to obtain a loan or advance of funds;~~
- (8) ~~Avoid or ameliorate the impairment of the owner's credit resulting from the recording or filing of a notice of default or the conduct of a foreclosure sale or tax sale; or~~
- (9) ~~Save the owner's residence from foreclosure or loss of home due to nonpayment of taxes.]~~

“Distressed property consultant” shall not include any of the following:

- (1) A person or the person's authorized agent acting under the express authority or written approval of the federal Department of Housing and Urban Development;
- (2) A person who holds or is owed an obligation secured by a lien on any distressed property, or a person acting under the express authorization or written approval of such person, when the person performs services in connection with the obligation or lien, if the obligation or lien did not arise as the result of or as part of a proposed distressed property conveyance;
- (3) Banks, savings banks, savings and loan associations, credit unions, trust companies, depository and nondepository financial service loan companies, and insurance companies organized, chartered, or holding a certificate of authority to do business under the laws of this State or any other state, or under the laws of the United States;
- (4) Attorneys licensed in the State of Hawaii engaged in the practice of law;
- (5) Certified public accountants licensed under chapter 466, persons holding a permit to practice public accountancy in the State of Hawaii, and persons holding a valid certified public accountant license issued under the laws of another state or territory who are

lawfully practicing in the State of Hawaii with a temporary permit to practice pursuant to rules established by the board of public accountancy and who are subject to regulation by the board of public accountancy while engaged in the practice of public accountancy;

- (6) A federal Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of these persons or entities, and any agent or employee of these persons or entities, while engaged in the business of these persons or entities;
- (7) A nonprofit organization that, pursuant to chapter 446, offers counseling or advice to an owner of a distressed property, if the nonprofit organization has no contract or agreement for services with lenders, distressed property purchasers, or any person who effects loans or distressed property purchases; or
- (8) A person currently licensed as an active real estate broker or real estate salesperson in Hawaii pursuant to chapter 467, when acting in the capacity of a real estate broker or real estate salesperson in accordance with customary industry standards."

4. By deleting the definition of "material fact".

~~["Material fact" means a fact that, if disclosed, might have influenced the distressed property owner to not enter into the agreement or obligation."]~~

SECTION 4. Section 480E-2.5, Hawaii Revised Statutes, is amended to read as follows:

**“[§480E-2.5] Mortgage rescue fraud; consumer education.** The office of consumer protection shall educate consumers about ~~[fraudulent activities]~~ abusive practices that may be committed against ~~[homeowners]~~ consumers who may be offered mortgage assistance relief services or who face property foreclosures, liens, or encumbrances, as appropriate.”

SECTION 5. Section 480E-3, Hawaii Revised Statutes, is amended to read as follows:

**“[§480E-3] Distressed property consultant contract.** (a) A distressed property consultant contract shall be in writing and shall fully disclose all services to be performed by the distressed property consultant and all terms of any agreements between the distressed property consultant and all ~~[owners of the]~~ distressed property[-] owners, including the total amount and terms of compensation to be directly or indirectly received by the distressed property consultant.

(b) A distressed property consultant contract shall contain on its first page in a type size no smaller than fourteen-point boldface type:

- (1) A description of the distressed property;
- (2) The name, street address, and telephone number of the distressed property consultant; and
- (3) The name and address of the distressed property consultant to which notice of cancellation is to be delivered.

(c) A distressed property consultant contract shall be dated and signed by the distressed property consultant. If the distressed property consultant is a person other than an individual, the individual executing the distressed property consultant contract on behalf of the distressed property consultant shall identify the title and office held by the individual.

(d) A distressed property consultant contract shall be dated and signed by all ~~[owners of the]~~ distressed property[-] owners.

(e) A distressed property consultant contract shall disclose the following information, and shall be substantially in the following form and printed in not less than fourteen-point type:

"You may stop doing business with us at any time. You may accept or reject the offer of mortgage assistance we obtain from your lender (or servicer). If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us [insert amount or method of calculating the amount] for our services.

[Name of the company] is not associated with the government, and our service is not approved by the government or your lender.

Even if you agree to use our service in an attempt to obtain mortgage assistance relief from the lending party, your lender may not agree to change your loan.

IF YOU STOP PAYING YOUR MORTGAGE, YOU COULD LOSE YOUR HOME AND DAMAGE YOUR CREDIT RATING."

For the purposes of this subsection, the amount "you will have to pay" shall consist of the total amount the consumer must pay to purchase, receive, and use all of the mortgage assistance relief services that are the subject of the sales offer, including but not limited to all fees and charges.

~~[(e)]~~ (f) The distressed property consultant shall provide each distressed property owner with a copy of the distressed property consultant contract and attached notice of cancellation immediately upon execution by all parties to the distressed property consultant contract. A distressed property consultant contract shall not be effective until all parties to the distressed property consultant contract have signed the contract.

(g) For forms of mortgage assistance relief that can only be obtained from a lending party, the objective of every such distressed property consultant contract shall be to obtain from the lending party a written offer to the distressed property owner for mortgage assistance relief on terms acceptable to the property owners. Any such agreement with the lending party for mortgage assistance relief shall be in writing, and shall become binding upon the distressed property owners only after all property owners have accepted the offer by executing the written contract."

SECTION 6. Section 480E-5, Hawaii Revised Statutes, is amended to read as follows:

**"[H]§480E-5[H] Cancellation of a distressed property consultant contract.**

(a) In addition to any other legal right to rescind a contract, any distressed property owner has the right to cancel a distressed property consultant contract, without any penalty or obligation, at any time before the distressed property consultant has fully performed each and every service the distressed property consultant contracted to perform or represented would be performed.

(b) Cancellation occurs when any ~~[owner of a]~~ distressed property owner delivers, by any means, written notice of cancellation to the address specified in the distressed property consultant contract.

(c) Notice of cancellation, if given by mail, is effective when deposited in the mail with postage prepaid. Notice by certified mail, return receipt requested, addressed to the address specified in the distressed property consultant contract, shall be conclusive proof of notice of cancellation.

(d) Notice of cancellation given by any ~~[owner of a]~~ distressed property owner need not take the particular form as provided with the distressed property consultant contract and, however expressed, is effective if it indicates the

intention of ~~[an owner]~~ the distressed property owner not to be bound by the contract.”

SECTION 7. Section 480E-6, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) A distressed property conveyance contract shall be in writing and shall fully disclose all rights and obligations of the distressed property purchaser and all ~~[owners of the]~~ distressed property owners and all terms of any agreements between the distressed property purchaser and all ~~[owners of the distressed property.]~~ distressed property owners.

(b) Every distressed property conveyance contract shall specifically include the following terms:

- (1) The total consideration to be given by the distressed property purchaser or tax lien payor in connection with or incident to the distressed property conveyance;
- (2) A complete description of the terms of payment or other consideration including any services of any nature that the distressed property purchaser represents will be performed for any ~~[owner of the]~~ distressed property owner before or after the distressed property conveyance;
- (3) A complete description of the terms of any related agreement designed to allow any ~~[owner of the]~~ distressed property owner to remain in the distressed property, such as a rental agreement, repurchase agreement, contract for deed, or lease with option to buy;
- (4) All notices as provided in this chapter;
- (5) The following notice, in a type size no smaller than fourteen-point boldface type, completed with the name of the distressed property purchaser, shall appear immediately above the notice of right to cancel a distressed property conveyance contract required by section 480E-7(a):

“NOTICE REQUIRED BY HAWAII LAW  
UNTIL YOUR RIGHT TO CANCEL THIS CONTRACT HAS  
ENDED, (Name of distressed property purchaser) OR ANYONE  
WORKING FOR (Name of distressed property purchaser) CAN-  
NOT ASK YOU TO SIGN OR HAVE YOU SIGN ANY DEED  
OR ANY OTHER DOCUMENT. YOU ARE URGED TO  
HAVE THIS CONTRACT REVIEWED BY AN ATTORNEY  
OF YOUR CHOICE WITHIN FIFTEEN BUSINESS DAYS OF  
SIGNING IT.”; and

- (6) If title to the distressed property will be transferred in the conveyance transaction, the following notice, in a type size no smaller than fourteen-point boldface type, completed with the name of the distressed property purchaser, shall appear immediately below the notice required by paragraph (5):

“NOTICE REQUIRED BY HAWAII LAW  
AS PART OF THIS TRANSACTION, YOU ARE GIVING UP  
TITLE TO YOUR HOME.””

SECTION 8. Section 480E-8, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[~~§480E-8~~]]~~ Cancellation of a distressed property conveyance contract.**

- (a) In addition to any other legal right to rescind a contract, any distressed prop-

erty owner has the right to cancel a distressed property conveyance contract, without any penalty or obligation, at any time before the later of midnight of the fifteenth business day following the day on which the last party to a distressed property conveyance contract signs the distressed property conveyance contract or 5:00 p.m. on the last day of the period during which any ~~[owner of a]~~ distressed property owner has the right to cure a default under state law.

(b) The period of fifteen business days following the day on which the last party to a distressed property conveyance contract signs the contract during which any ~~[owner of the]~~ distressed property owner may cancel the contract shall not begin to run until all parties to the distressed property conveyance contract have executed the distressed property conveyance contract and the distressed property purchaser has complied with all the requirements of sections 480E-6, 480E-7, and this section.

(c) Cancellation occurs when any ~~[owner of a]~~ distressed property owner delivers, by any means, and within the time specified under subsection (a), written notice of cancellation to the address specified in the distressed property conveyance contract.

(d) Notice of cancellation, if given by mail, is effective when deposited in the mail with postage prepaid. Notice by certified mail, return receipt requested, addressed to the address specified in the distressed property conveyance contract, shall be conclusive proof of notice of cancellation.

(e) Notice of cancellation given by any ~~[owner of a]~~ distressed property owner need not take the particular form as provided with the distressed property conveyance contract and, however expressed, is effective if it indicates the intention of ~~[an owner]~~ a distressed property owner not to be bound by the contract.

(f) Within fifteen days following receipt of a notice of cancellation given in accordance with this section, the distressed property purchaser shall return, without condition, any and all original contracts and documents signed by any ~~[owner of the distressed property]~~ distressed property owner."

SECTION 9. Section 480E-10, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b) to read as follows:

"~~[[H§480E-10]]~~ **Prohibitions.** (a) A distressed property consultant shall not:

- (1) Represent, expressly or by implication, in connection with the advertising, marketing, promotion, offering for sale, or performance of any mortgage assistance relief service, that a distressed property owner cannot or should not contact or communicate with the distressed property owner's lender or servicer;
- (2) Misrepresent, expressly or by implication, any material aspect of any mortgage assistance relief service, including but not limited to:
  - (A) The likelihood of negotiating, obtaining, or arranging any represented service or result, such as those set forth in the definition of mortgage assistance relief service;
  - (B) The amount of time it will take the distressed property consultant to accomplish any represented service or result, such as those set forth in the definition of mortgage assistance relief service;
  - (C) That a mortgage assistance relief service is affiliated with, endorsed or approved by, or otherwise associated with:
    - (i) The United States government;
    - (ii) Any governmental homeowner assistance plan;

- (iii) Any federal, state, or local government agency, unit, or department;
- (iv) Any nonprofit housing counselor agency or program;
- (v) The maker, holder, or servicer of the consumer's residential loan; or
- (vi) Any other individual, entity, or program;
- (D) The distressed property owner's obligation to make scheduled periodic payments or any other payments pursuant to the terms of the distressed property owner's residential loan;
- (E) The terms or conditions of the distressed property owner's residential loan, including but not limited to the amount of the debt owed;
- (F) The terms or conditions of any refund, cancellation, exchange, or repurchase policy for any mortgage assistance relief service, including but not limited to the likelihood of obtaining a full or partial refund, or the circumstances in which a full or partial refund will be granted, for a mortgage assistance relief service;
- (G) That the distressed property consultant has completed the represented services or has a right to claim, demand, charge, collect, or receive payment or other consideration;
- (H) That the distressed property owner will receive legal representation;
- (I) The availability, performance, cost, or characteristics of any alternative to for-profit mortgage assistance relief services through which the distressed property owner can obtain mortgage assistance relief, including negotiating directly with the residential loan holder or servicer, or using any nonprofit housing counselor agency or program;
- (J) The amount of money or the percentage of the debt amount that a distressed property owner may save by using any mortgage assistance relief service;
- (K) The total cost to purchase any mortgage assistance relief service; or
- (L) The terms, conditions, or limitation of any offer of mortgage assistance relief the distressed property consultant obtains from the distressed property owner's residential loan holder or servicer, including the time period in which the distressed property owner must decide to accept the offer;
- (3) Make any representation, expressly or by implication, about the benefits, performance, or efficacy of any mortgage assistance relief service unless, at the time such representation is made, the provider possesses and relies upon competent and reliable evidence that substantiates that the representation is true. For the purposes of this paragraph, "competent and reliable evidence" means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by individuals qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results;
- [1] ~~Misrepresent or conceal~~ (4) Conceal any material fact;
- [2] (5) Induce or attempt to induce a distressed property owner to waive any provision of this chapter;

- [(3)] (6) Make any promise or guarantee not fully disclosed in the distressed property consultant contract;
- [(4)] (7) Engage or attempt to engage in any activity or act concerning the distressed property not fully disclosed in the distressed property consultant contract;
- [(5)] (8) Induce or attempt to induce a distressed property owner to engage in any activity or act not fully disclosed in the distressed property consultant contract;
- [(6)] (9) Take, ask for, claim, demand, charge, collect, or receive any compensation until after the distressed property consultant has fully performed each service the distressed property consultant contracted to perform or represented would be performed;
- [(7)] (10) Take, ask for, claim, demand, charge, collect, or receive for any reason, any fee, interest, or any other compensation that exceeds the two most recent monthly mortgage installments of principal and interest due on the loan first secured by the distressed property or the most recent annual real property tax charged against the distressed property, whichever is less;
- [(8)] (11) Take or ask for a wage assignment, a lien of any type on real or personal property, or other security to secure the payment of compensation. This type of security is void and not enforceable;
- [(9)] (12) Receive any consideration from any third party in connection with services rendered to a distressed property owner unless the consideration is fully disclosed in the distressed property consultant contract;
- [(10)] (13) Acquire any interest, directly or indirectly, or by means of a subsidiary or affiliate, in a distressed property from a distressed property owner with whom the distressed property consultant has contracted;
- [(11)] (14) Require or ask a distressed property owner to sign any lien, encumbrance, mortgage, assignment, or deed unless the lien, encumbrance, mortgage, assignment, or deed is fully described in the distressed property consultant contract, including all disclosures required by this chapter; ~~or~~
- (12) (15) Take any power of attorney from a distressed property owner for any purpose, except to inspect documents concerning the distressed property as allowed by law[-];
- (16) Advise or instruct a distressed property owner to stop making payments to any lending party if that property owner is not in receipt of a written notice that the property owner's residential loan has been accelerated;
- (17) Fail to disclose, at the time the distressed property consultant furnishes the distressed property owner with the lending party's written offer for mortgage assistance relief, the following information:  
"This is an offer of mortgage assistance we obtained from your lender [or servicer]. You may accept or reject the offer. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us [same amount as disclosed in the distressed property consultant contract] for our services."  
The disclosure required by this paragraph shall be made in a clear and prominent manner, on a separate written page, and preceded by the heading:  
"IMPORTANT NOTICE: Before buying this service, consider the following information."

- The heading shall be in bold face type that is two-point type larger than the type size of the required disclosure:
- (18) Fail to provide, at the time the distressed property consultant furnishes the distressed property owner with the written agreement specified in paragraph (17), a notice from the lending party that describes all material differences between the terms, conditions, and limitations associated with the distressed property owner's current residential loan and the terms, conditions, and limitations associated with the distressed property owner's residential loan if the owner accepts the lending party's offer, including but not limited to differences in the loan's:
- (A) Principal balance;
  - (B) Contract interest rate, including the maximum rate and any adjustable rates, if applicable;
  - (C) Amount and number of the owner's scheduled periodic payments on the loan;
  - (D) Monthly amounts owed for principal, interest, taxes, and any mortgage insurance on the loan;
  - (E) Amount of any delinquent payments owing or outstanding;
  - (F) Assessed fees or penalties; and
  - (G) Term;
- The notice required by this paragraph shall be made in a clear and prominent manner, on a separate written page, and preceded by the heading: "IMPORTANT INFORMATION FROM YOUR [name of lender or servicer] ABOUT THIS OFFER." The heading shall be in bold face type that is two-point type larger than the type size of the required disclosure:
- (19) Fail to disclose in the notice specified in paragraph (18), in cases where the offer of mortgage assistance relief obtained by the distressed property consultant from the lending party is a trial residential loan modification, the terms, conditions, and limitations of the offer, including but not limited to:
- (A) The fact that the distressed property owner may not qualify for a permanent loan modification; and
  - (B) The likely amount of the scheduled periodic payments and any arrears, payments, or fees that the distressed property owner would owe in failing to qualify; or
- (20) File any document in the bureau of conveyances of the State of Hawaii that purports to modify, reduce, eliminate, discharge, contest, or otherwise affect any mortgage, lien, or encumbrance of record without either the express written consent of the lending party or lienholder or a court order permitting or directing the document to be filed, with the exception of a notice of pendency of action or lis pendens.
- (b) A distressed property purchaser shall not:
    - (1) Misrepresent or conceal any material fact;
    - (2) Induce or attempt to induce a distressed property owner to waive any provision of this chapter;
    - (3) Make any promise or guarantee not fully disclosed in the distressed property conveyance [[contract]];
    - (4) Engage or attempt to engage in any activity or act concerning the distressed property not fully disclosed in the distressed property conveyance contract;



- (5) Induce or attempt to induce a distressed property owner to engage in any activity or act not fully disclosed in the distressed property conveyance contract;
- (6) Enter into or attempt to enter into a distressed property conveyance unless the distressed property purchaser verifies and can demonstrate that ~~[an owner of]~~ the distressed property owner has a reasonable ability to pay any amounts due to reacquire an interest in the distressed property or to make monthly or any other payments due under a distressed property conveyance contract or distressed property lease, if the distressed property purchaser allows any ~~[owner of a]~~ distressed property owner to remain in, occupy, use, or repurchase the distressed property;
- (7) Fail to make a payment to the ~~[owner of the]~~ distressed property owner at the time the title is conveyed so that the ~~[owner of the]~~ distressed property owner has received consideration in an amount of at least eighty-two per cent of the property's fair market value, or, in the alternative, fail to pay the ~~[owner of the]~~ distressed property owner no more than the costs necessary to extinguish all of the existing obligations on the distressed property, as set forth in this chapter; provided that the distressed property owner's costs to repurchase the distressed property pursuant to the terms of the distressed property conveyance contract do not exceed one hundred twenty-five per cent of the distressed property purchaser's costs to purchase the property. If ~~[an owner]~~ a distressed property owner is unable to repurchase the property pursuant to the terms of the distressed property conveyance contract, the distressed property purchaser shall not fail to make a payment to the ~~[owner of the]~~ distressed property owner so that the ~~[owner of the]~~ distressed property owner has received consideration in an amount of at least eighty-two per cent of the property's fair market value at the time of conveyance or at the expiration of the distressed property owner's option to repurchase;
- (8) Enter into any repurchase or lease agreement as part of a distressed property conveyance contract or subsequent conveyance of an interest in the distressed property back to a distressed property owner that is unfair or commercially unreasonable or engage in any other unfair conduct;
- (9) Represent, directly or indirectly, that the distressed property purchaser is acting as an advisor or a consultant or is acting on behalf of or assisting ~~[an owner of]~~ a distressed property owner to "remain in the house", "save the house", "buy time", or "stop the foreclosure" or is doing anything other than purchasing the distressed property;
- (10) Misrepresent the distressed property purchaser's status as to license or certification;
- (11) Do any of the following until after the time during which ~~[an owner of]~~ a distressed property owner may cancel the distressed property conveyance contract:
  - (A) Accept from ~~[an owner of the]~~ a distressed property owner execution of any instrument of conveyance of any interest in the distressed property;
  - (B) Execute an instrument of conveyance of any interest in the distressed property; or

- (C) Pursuant to chapter 501 or 502, record any document signed by ~~[an owner of]~~ a distressed property~~[-]~~ owner, including any instrument of conveyance;
- (12) Fail to re-convey title in a distressed property to the distressed property owner or owners when the terms of the distressed property conveyance contract have been fulfilled if the distressed property consultant or distressed property purchaser contracted or represented that title in the distressed property would be re-conveyed to the distressed property owner or owners when the terms of the distressed property conveyance contract have been fulfilled;
- (13) Induce or attempt to induce ~~[an owner of the]~~ a distressed property owner to execute a quitclaim deed concerning a distressed property;
- (14) Enter into a distressed property conveyance contract where any party to the contract is represented by power of attorney;
- (15) Immediately following the conveyance of the distressed property, fail to extinguish all liens encumbering the distressed property at the time of the distressed property conveyance or fail to assume all liability with respect to all liens encumbering the distressed property at the time of the distressed property conveyance, which assumption shall be accomplished without violations of the terms and conditions of the lien or liens being assumed. Nothing herein shall preclude a lender from enforcing any provision in a contract that is not otherwise prohibited by law;
- (16) Fail to complete a distressed property conveyance through:
  - (A) An escrow depository licensed by the department of commerce and consumer affairs;
  - (B) A bank, trust company, or savings and loan association authorized under any law of this State or of the United States to do business in the State;
  - (C) A person licensed as a real estate broker in this State who is the broker for a party to the escrow; provided that the person does not charge any escrow fee; or
  - (D) A person licensed to practice law in this State who, in escrow, is not acting as the employee of a corporation; provided that the person does not charge any escrow fee; or
- (17) Cause the property to be conveyed or encumbered without the knowledge or permission of all ~~[owners of a]~~ distressed property owners or in any way frustrate the ability of ~~[a]~~ any distressed property owner to reacquire the distressed property.”

SECTION 10. Section 480E-11, Hawaii Revised Statutes, is amended to read as follows:

**“§480E-11 Unfair or deceptive act or practice; penalties.** (a) Any person who violates any provision of this chapter shall be deemed to have engaged in an unfair or deceptive act or practice in the conduct of any trade or commerce within the meaning of section 480-2.

(b) Any person who violates any provision of title 12 Code of Federal Regulations part 1015, pertaining to mortgage assistance relief services, shall be deemed to have engaged in an unfair or deceptive act or practice in the conduct of any trade or commerce within the meaning of section 480-2.

~~[(b)]~~ (c) The penalties provided in this section shall be cumulative to the remedies or penalties available under all other laws of this State.”

## ACT 143

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 12. This Act shall take effect upon its approval.  
(Approved June 29, 2016.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 143

H.B. NO. 1894

A Bill for an Act Relating to Post-Secondary Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 305J-13, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) If a private college or university, seminary, or religious training institution under the jurisdiction of the department ceases operating within the State, the institution, its owner, or the owner’s designee, and its governing board shall be jointly and severally liable to deposit with the department the institution’s educational records requested by the department in a form to be prescribed by the director.”

2. By amending subsection (d) to read:

“(d) The department shall permanently retain any student transcripts received pursuant to this section~~[-]~~ in a form prescribed by the director. The department shall retain any other records requested and obtained pursuant to this section for ~~[ten years; provided that after this period,]~~ a time period prescribed by the director; provided that at the time of disposal, the department shall dispose of the records in a manner that will adequately protect the privacy of any personal information included in the records.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.  
(Approved June 29, 2016.)

## ACT 144

H.B. NO. 1096

A Bill for an Act Relating to the Secure and Fair Enforcement for Mortgage Licensing Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 454F-10.5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) The principal place of business and each branch office of the mortgage loan originator company shall be identified in NMLS to consumers as a

location at which the licensee holds itself out as a mortgage loan originator company. Each such location shall be open for business to the public during posted business hours, at least some of which shall be during regular business hours. If a location is in a commercial building, then the business hours shall be posted on or adjacent to the main office door of the mortgage loan originator company's location, and visible to the public from outside the location. If a location is not in a commercial building, or such posting is not permitted by the commercial building, then the business hours shall be posted on the home page of the mortgage loan originator company's website, along with the address and phone number of the location. Business hours, whether posted at a location or on a mortgage loan originator company website, shall be displayed in a clear, conspicuous, and accurate manner ~~[to inform]~~ that informs the consumer when the location will be open."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

## ACT 145

H.B. NO. 1669

A Bill for an Act Relating to Public Accountancy.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I

SECTION 1. Section 466-3, Hawaii Revised Statutes, is amended by amending the definition of "peer review" to read as follows:

"Peer review" means a study, appraisal, or review of one or more aspects of the professional work of a firm that issues attest reports by a person or persons who hold permits to practice public accountancy under section 466-7 or are licensed to practice public accountancy in any other state and who are not affiliated with the firm being reviewed."

SECTION 2. Section 466-35, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A firm shall include, with the peer review compliance reporting form, the contemporaneous Hawaii supplement to the peer review report pursuant to section 466-36, if:

- (1) A peer review report from an approved sponsoring organization does not include the selection of a Hawaii office or Hawaii attest engagement;
- (2) The peer reviewer does not hold permits to practice public accountancy under section 466-7, ~~and is required to have permits to practice under section 466-7,~~ or is not licensed to practice public accountancy in any other state, except inspectors for the public company accounting oversight board; or
- (3) The final report resulting from any inspection by the public company accounting oversight board firm inspection program does not include the firm's Hawaii offices, if any, and Hawaii attest engage-

ments in the scope of the inspection, and the firm is not required to enroll in another peer review program under section 466-34.”

SECTION 3. Section 466-36, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A firm required to undergo a peer review under this chapter shall engage the services of a practitioner or firm holding a permit issued under section 466-7 to perform the following procedures to supplement the peer review report:

- (1) Obtain from the reviewed firm a list of Hawaii attest engagements included in the scope of the peer review, in accordance with the American Institute of Certified Public Accountants Standards for Performing and Reporting on Peer Reviews;
- (2) Select one or more engagements from the list of engagements obtained from the reviewed firm;
- (3) Obtain from the reviewed firm, the reports, financial statements, work papers, and work product resulting from the attest engagements selected;
- (4) Read and compare the reports, work papers, and work product to an appropriate disclosure checklist to evaluate the firm’s compliance with professional standards; and
- (5) Document all instances of noncompliance with professional standards detected while performing the procedures listed in this section.”

SECTION 4. Section 466-38, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For peer reviews scheduled after December 31, 2014, any report or document required to be submitted under subsection (a) shall be filed with the board as follows:

- (1) Firms enrolled in the American Institute of Certified Public Accountants and Hawaii Society of Certified Public Accountants peer review programs and administered by the Hawaii Society of Certified Public Accountants, within ~~[ten]~~ thirty calendar days of receipt of the notice of completion from the Hawaii Society of Certified Public Accountants, shall complete the peer review compliance reporting form under section 466-35 and submit the form to the board along with the required documents;
- (2) Firms otherwise enrolled in the American Institute of Certified Public Accountants peer review program, including those whose peer reviews are administered by the National Peer Review Committee, within ~~[ten]~~ thirty calendar days of receipt of the notice of completion from the sponsoring organization, shall complete the peer review compliance reporting form under section 466-35 and submit the form to the board along with the required documents;
- (3) Firms enrolled in the public company accounting oversight board inspection program shall, within ~~[ten]~~ thirty calendar days of receipt of the issuance of the Part I report from the public company accounting oversight board, complete the peer review compliance reporting form required by section 466-35 and submit the form to the board along with the required documents; and
- (4) Firms enrolled in any other peer review program approved by this part shall submit the report generated by that review process and all

associated documentation to the board in a form acceptable to the board.”

SECTION 5. Section 466-39, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A firm shall have ~~[ten]~~ thirty calendar days after the filing of the peer review compliance reporting form to appeal a “pass with deficiency” or a “fail” rating that may result in the denial, termination, or nonrenewal of a permit to practice.”

## PART II

SECTION 6. Section 466-42, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§466-42]]~~ **Peer review oversight committee.** (a) The board shall establish a peer review oversight committee for the purpose of:

- (1) Monitoring sponsoring organizations to ensure that peer reviews are being conducted and reported in accordance with standards for performing and reporting on peer reviews adopted by the American Institute of Certified Public Accountants Peer Review Board;
- (2) Reviewing the policies and procedures of sponsoring organization applicants as to their conformity with the peer review standards of any applicable peer review organization and this part; and
- (3) Reporting to the board on the conclusions and recommendations reached as a result of performing the functions in paragraphs (1) and (2).

(b) Except to the extent otherwise required under this section and section 466-41(b), information concerning a specific firm or reviewer obtained by the peer review oversight committee during oversight activities shall be confidential and shall not be subject to discovery, pursuant to section 466-32, and reports submitted to the board by the peer review oversight committee shall not contain information concerning specific firms or reviewers. Members of the peer review oversight committee shall be required to execute confidentiality statements for the sponsoring organization that they oversee.

(c) Effective January 1, 2013, the peer review oversight committee shall consist of three individuals who hold permits to practice under section 466-7. No member of the peer review oversight committee shall be a current member of the board, the Hawaii Society of Certified Public Accountants Peer Review or Professional Ethics Committees, or the American Institute of Certified Public Accountants Professional Ethics Executive Committee. The members shall have significant experience with attest engagements and currently be in the practice of public accountancy at the partner or equivalent level. The member’s firm shall have received a report with a rating of pass or an unmodified opinion from its last peer review.

(d) The peer review oversight committee shall make an annual recommendation to the board as to the qualifications of an approved sponsoring organization to continue as an approved sponsoring organization on the basis of the results of the following procedures:

- (1) Where the sponsoring organization is:
  - (A) The American Institute of Certified Public Accountants;
  - (B) A state certified public accountant society, including the Hawaii Society of Certified Public Accountants, fully involved in

- administering the American Institute of Certified Public Accountants peer review program; or
- (C) The public company accounting oversight board, the peer review oversight committee shall review the published reports of the entity or the entity's successor to determine whether there is an acceptable level of oversight; and
- (2) Where the sponsoring organization is other than any organization listed in paragraph (1), the peer review oversight committee shall perform the following functions:
  - (A) At least one member of the peer review oversight committee shall attend at least one meeting of the sponsoring organization's peer review committee; and
  - (B) During these visits, the peer review oversight committee members shall:
    - (i) Meet with the organization's peer review committee during the committee's consideration of peer review documents;
    - (ii) Evaluate the organization's procedures for administering the peer review program;
    - (iii) Examine, on the basis of a random selection, a number of reviews performed by the organization to include, at a minimum, a review of the report on the peer review, the firm's response to the matters discussed, the sponsoring organization's letter of acceptance outlining any additional corrective or monitoring procedures, and the required technical documentation maintained by the sponsoring organization on the selected reviews; and
    - (iv) Expand the examination of peer review documents if significant deficiencies, problems, or inconsistencies are encountered during the analysis of the materials.
- (e) In the evaluation of policies and procedures of sponsoring organization applicants, the peer review oversight committee shall:
  - (1) Examine the policies as drafted by the applicant to determine whether the policies provide reasonable assurance of conforming to the standards for peer reviews;
  - (2) Evaluate the procedures proposed by the applicant to determine whether:
    - (A) Assigned reviewers are appropriately qualified to perform the review for the specific firm;
    - (B) Reviewers are provided with appropriate materials;
    - (C) The applicant has provided for consultation with the reviewers on problems arising during the review and that specified occurrences requiring consultation are outlined;
    - (D) The applicant has provided for the assessment of the results of the review; and
    - (E) The applicant has provided for an independent report acceptance body that considers and accepts the reports of the review and requires corrective actions by firms with significant deficiencies; and
  - (3) Make recommendations to the board as to approval of the applicant as a sponsoring organization.
- (f) Annually, the peer review oversight committee shall provide the board with a report on the continued reliability of sponsoring organizations' peer reviews. The peer review oversight committee report shall provide reason-

able assurance that peer reviews are being conducted and reported on consistently and in accordance with the Standards for Performing and Reporting on Peer Review adopted by the American Institute of Certified Public Accountants. A summary of oversight visits shall be included with the annual report.

(g) The members of the peer review oversight committee shall serve without compensation, but shall be reimbursed for necessary expenses, including travel expenses, that are incurred in the performance of their duties.

(h) No member of the peer review oversight committee shall bear any civil liability for any action taken as a member of the peer review oversight committee in furtherance of the purposes for which the peer review oversight committee was established."

### PART III

SECTION 7. Section 466-3, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read:

"Hawaii attest work" means attest services provided or attest reports issued by an individual or firm licensed and authorized to practice public accountancy in this State or any other state, to any of the following clients:

- (1) An individual who is a resident of this State;
- (2) A person, entity, firm, or trust that is domiciled within this State, or whose principal or home office is physically located within this State; or
- (3) A subsidiary that has a physical presence in this State, and has a separate, stand-alone financial statement or report issued on that subsidiary."

### PART IV

SECTION 8. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

## ACT 146

S.B. NO. 2863

A Bill for an Act Relating to Citations for Massage Therapy Violations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 452, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§452- Citation for licensee violations; fines.** (a) In addition to any other remedy available under this chapter, the department of commerce and consumer affairs may issue a citation to any person who holds a massage therapist or massage therapy establishment license issued by the board, or is designated the principal massage therapist by the massage therapy establishment, for any



of the following violations of this chapter or the rules adopted pursuant to this chapter and chapter 91:

- (1) Failure of a massage therapy establishment, during all hours of operation, to conspicuously display a current massage therapy establishment license and the current licenses and permits of all persons employed by the massage therapy establishment who engage in the practice of massage therapy;
- (2) Failure of a principal massage therapist to ensure that every massage therapist apprentice who engages in the practice of massage therapy at the massage therapy establishment wears a conspicuously placed name tag stating the massage therapist apprentice's name and the word "apprentice" during all hours of operation;
- (3) Operation of a massage therapy establishment without the presence of a principal massage therapist or a licensed designee during all hours of operation; or
- (4) Failure of a massage therapist or massage therapy establishment to include the respective massage therapist's or massage therapy establishment's current license number in any advertisement pursuant to section 452-23(b).
- (b) Each citation:
  - (1) Shall be in writing and describe the basis of the citation, including the specific statute or rule violated;
  - (2) May contain an order of abatement and the assessment of a fine in the amount of \$250 for each violation;
  - (3) Shall be served on the licensee by personal service; and
  - (4) Shall inform the licensee that the licensee may submit a written request to the board for a hearing to contest the citation, within twenty calendar days from the service of the citation.
- (c) If the licensee timely submits a written request to the board for a hearing, the board may designate a hearings officer to conduct the hearing in accordance with chapter 91.
- (d) If the licensee does not timely submit a written request to the board for a hearing, the citation shall be deemed a final order of the board.
- (e) Failure of a licensee to pay any assessed fine within thirty calendar days, unless the licensee contests the citation, may result in further disciplinary action by the board."

SECTION 2. Section 452-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Principal massage therapist" means a massage therapist designated by an establishment or an out-call massage service as the person in charge."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 147

S.B. NO. 2671

## A Bill for an Act Relating to Veterinary Technicians.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that veterinary technicians are essential members of the veterinary health care team, second only to licensed veterinarians, who deliver quality animal care to the community. In public service, veterinary technicians ensure compliance with animal care and control at the University of Hawaii, in the animal industry division of the department of agriculture, in laboratories, and in the rabies quarantine branch of the department of agriculture. Veterinary technicians also assist veterinarians to promote and ensure animal health at the Honolulu zoo, in the shelter and rescue community, in laboratories, and in other veterinary-related establishments. In private practice, supervised by licensed veterinarians, veterinary technicians assist in managing veterinarian practices and veterinary health care teams. Highly-trained veterinary technicians also assist veterinarians in educating the staff and public and provide hands-on quality veterinary medical and surgical services.

The legislature further finds that although students must travel to the continental United States to seek a doctorate of veterinary medicine, Hawaii has a successful veterinary technician program at Windward community college that has been accredited by the American Veterinary Medical Association since 2013. The program enjoys ongoing popularity and outstanding success and its graduates are easily placed in gainful employment.

Currently, Hawaii is the last state to recognize veterinary technicians as bona fide health professionals. Accordingly, the legislature finds that veterinary technicians should be registered by the department of commerce and consumer affairs to ensure the continuing delivery of quality veterinary service to the community and protect animal welfare.

The purpose of this Act is to recognize the important role veterinary technicians play in maintaining the level of care of animals in the State by:

- (1) Beginning July 1, 2018, establishing requirements for the regulation of veterinary technicians and the practice of veterinary technology; and
- (2) Establishing registration requirements and limitations on use of titles for veterinary technicians.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
VETERINARY TECHNOLOGY PRACTICE**

**§ -1 Definitions.** As used in this chapter:

“Department” means the department of commerce and consumer affairs.

“Intubate” means to pass a tube into the trachea for purposes of anesthesia and airway maintenance.

“Monitor” means to evaluate patient health by tracking vital signs via physical examination and multi-parameter monitors in order to recognize abnormalities while an animal is under anesthesia.

“Practice of veterinary technology” includes but is not limited to the following procedures only under the direct supervision of a licensed veterinarian:

- (1) Monitoring anesthesia;

- (2) Intubating;
- (3) Performing dental cleaning;
- (4) Creating a relief hole in the skin to facilitate placement of an intra-venous catheter; and
- (5) Participating in laboratory management activities.

**§ -2 Practice of veterinary technology; qualifications; registration required.** (a) No person shall represent, announce, or advertise oneself, publicly or privately, as a veterinary technician or registered veterinary technician, or shall append the letters "RVT" or "VT" or affix any other words, letters, abbreviations, or insignia to the person's name indicating or implying that the person is engaged in the practice of veterinary technology, unless the person:

- (1) Registers the person's name and business address biennially with the department in a manner prescribed by the department; and
- (2) Meets the qualifications of section -3.
- (b) The department shall maintain and biennially update a list of the names and business addresses of the veterinary technicians who are registered pursuant to subsection (a).

(c) Nothing in this chapter shall be construed to prohibit a licensed veterinarian from utilizing support or auxiliary personnel to assist in the practice of veterinary medicine; provided that the support or auxiliary personnel shall work under the direct supervision of a licensed veterinarian.

(d) A registration granted under this chapter shall mean that the person has met the requirements, including minimum practice standards, to provide protection to the public and is permitted to use the title of veterinary technician or registered veterinary technician and engage in the practice of veterinary technology.

**§ -3 Veterinary technician qualifications.** No applicant shall be registered to engage in the practice of veterinary technology unless the applicant:

- (1) Is at least eighteen years of age;
- (2) Has successfully passed the Veterinary Technician National Examination; and
- (3) Meets at least one of the following conditions:
  - (A) Has successfully completed a course of study at a program for veterinary technology accredited by the American Veterinary Medical Association Committee on Veterinary Technician Education and Activities;
  - (B) Is a licensed, certified, or registered veterinary technician in good standing in another state having standards for registration comparable to those in this State; or
  - (C) Prior to July 1, 2021, submits a notarized document from an employer who is a licensed veterinarian and who certifies that the applicant has five years or more of practical experience in Hawaii; provided that no reciprocity shall be given for practical experience gained outside of the State.

Before any applicant shall be eligible for registration under this chapter, the applicant shall file an application in a form as shall be prescribed by the department and pay to the department of commerce and consumer affairs an application fee and all other applicable fees."

**SECTION 3.** Upon the issuance of a new registration under section 2 of this Act and at each registration renewal period, each veterinary technician shall pay, in addition to the registration fee or renewal fee, a surcharge of \$50, which

shall be maintained in a separate account within the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes. At the end of each quarter, the moneys contained in the separate account established pursuant to this section shall be transferred to the compliance resolution fund until such time that the total transferred amounts equal the amount appropriated in section 4 of this Act. Thereafter, no surcharge shall be assessed, and any funds in excess of the amount appropriated in section 4 of this Act shall be deposited into the compliance resolution fund.

SECTION 4. There is appropriated out of the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes, the sum of \$30,000 or so much thereof as may be necessary for fiscal year 2016-2017 to implement the registration of veterinary technicians as required by this Act.

The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 2016; provided that section 2 shall take effect on July 1, 2018.

(Approved June 29, 2016.)

## ACT 148

S.B. NO. 2673

A Bill for an Act Relating to Travel Agencies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that a travel agency is required by law to register prior to selling or advertising travel services, and an activity desk is required to register prior to selling, contracting for, arranging, or advertising activities that are furnished by an activity provider. The legislature further finds that travel agencies may sometimes act as activity desks when the travel agencies sell or arrange activities furnished by an activity provider for travelers either as individual activities or as part of a tour package.

The purpose of this Act is to clarify existing law and provide better protection to consumers who purchase activities from travel agencies by requiring travel agencies that act as activity desks to register as activity desks.

SECTION 2. Section 468L-2, Hawaii Revised Statutes, is amended to read as follows:

**“§468L-2 Registration and renewal.** (a) A travel agency shall register with the director prior to engaging in the business of selling or advertising to sell travel services.

(b) Each travel agency shall renew its registration on or before December 31 of each odd-numbered year. A statement on a form designed and provided by the department verifying that the practices of the travel agency are in accordance with section 468L-5, shall be filed with the renewal.

(c) A travel agency that sells activities individually or as part of a tour package shall register with the director as an activity desk under section 468M-2.”

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

## A Bill for an Act Relating to Financial Institutions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the fees financial institutions are required to pay under chapter 412, Hawaii Revised Statutes, are inconsistent and need clarification. Inconsistent and ambiguous fees create confusion and time consuming inquiries for the department of commerce and consumer affairs' division of financial institutions.

Accordingly, the purpose of this Act is to create a consistent and clear fee process for financial institutions.

SECTION 2. Section 412:2-105.2, Hawaii Revised Statutes, is amended by amending subsections (b) to (f) to read as follows:

"(b) The assessments shall be paid semiannually on ~~[February 15]~~ March 1 and ~~[August 15]~~ September 1 of each year based on the institution's total assets reported as of the previous December 31 and June 30, respectively; ~~provided that the payments of the assessment shall commence on February 15, 2014.~~

(c) In addition to the assessments established in subsection (a), a financial institution or financial institution applicant shall pay fees as follows:

- (1) A nonrefundable fee of \$10,000 for an application for preliminary approval by the commissioner for the organization of a Hawaii financial institution pursuant to section 412:3-201, 412:3-202, 412:3-206, or 412:3-301; ~~or 412:5-205~~;
- (2) A nonrefundable fee of \$9,000 for an application for preliminary approval by the commissioner for the organization of a Hawaii financial institution pursuant to section 412:5-402;
- (3) A nonrefundable fee of \$2,500 for a final application for a charter or license to engage in the business of a Hawaii financial institution pursuant to section 412:3-212;
- ~~[(4) A nonrefundable fee of \$2,500 for a final application for a charter or license to engage in the business of a savings bank pursuant to section 412:6-101;~~
- ~~(5) A nonrefundable fee of \$2,500 for a final application for a charter or license to engage in the business of a trust company pursuant to section 412:8-102;~~
- ~~[(6)]~~ (4) A nonrefundable fee of \$10,000 for an application for a merger or consolidation or acquisition of control involving a Hawaii financial institution;
- ~~[(7) A nonrefundable fee of \$10,000 for an application for the acquisition of control of a Hawaii financial institution;~~
- ~~(8)]~~ (5) A nonrefundable fee of \$2,500 for an application for the conversion of a federal financial institution to a Hawaii financial institution or the conversion of a Hawaii financial institution to another Hawaii financial institution charter;
- ~~[(9)]~~ (6) A nonrefundable fee of \$5,000 for an application of a bank to conduct a trust business through a subsidiary, division, or department of the bank pursuant to ~~[[section]]~~ 412:5-205;
- ~~[(10)]~~ (7) A nonrefundable fee of \$5,000 for an application of a bank to conduct insurance activities pursuant to section 412:5-205.5;
- ~~[(11)]~~ (8) A nonrefundable fee of \$5,000 for an application of a bank to engage in securities activities pursuant to section 412:5-205.7;

- [(42)] (9) A nonrefundable fee of \$2,000 for an application for a bank ~~[or], savings bank, or depository financial services loan company~~ to comply with lending limits applicable to federal financial institutions pursuant to section 412:5-302 ~~[or section]~~, 412:6-303~~;~~, or 412:9-404;
- [(43)] (10) A nonrefundable fee of \$2,000 for an application to exceed certain permitted investment limits pursuant to sections 412:5-305(f) and (h), 412:6-306(f) and (h), 412:7-306(f) and (h), 412:8-301(f), 412:9-409(f) and (i), and 412:10-502(g); and
- [(44)] (11) A nonrefundable fee of \$2,500 for an application ~~[for a charter]~~ to engage in the business of a credit union.
- (d) ~~[Beginning January 1, 2014, the]~~ The annual fee for each intra-Pacific financial institution and interstate branch of out-of-state banks is the sum of \$1,000 for each office, agency, and branch office maintained by the financial institution, payment of which shall be made before December 31 of each year. The commissioner may establish, increase, decrease, or repeal this fee pursuant to rules adopted in accordance with chapter 91.
- (e) Intra-Pacific bank fees shall be as follows:
  - (1) A nonrefundable fee of \$9,000 to establish an initial branch pursuant to section 412:5-401;
  - [(+)] (2) A nonrefundable fee of \$750 ~~[for an application for a]~~ to establish an additional branch~~[- subsidiary, or subsidiary of a holding company]~~ or agency of an intra-Pacific bank ~~[pursuant to section 412:5-402]; and~~
  - [(2)] (3) A nonrefundable fee of \$500 for an application to relocate a branch~~[- subsidiary, or subsidiary of a holding company]~~ or agency of an intra-Pacific bank established or acquired pursuant to section 412:5-401.
- (f) A nonrefundable fee of \$500 shall be assessed for an application to relocate a branch or office established pursuant to section 412:12-107."

SECTION 3. Section 412:2-109, Hawaii Revised Statutes, is amended to read as follows:

**"§412:2-109 Compliance resolution fund; financial institution examiners.**

- (a) Any law to the contrary notwithstanding, fees and fines collected by the commissioner of financial institutions shall be deposited into the compliance resolution fund established pursuant to section 26-9(o).
- (b) The commissioner may appoint financial institution examiners, in accordance with chapter 76, who shall examine the affairs, transactions, accounts, records, documents, and assets of financial institutions. The commissioner also may appoint administrative support personnel, in accordance with chapter 76, who shall assist and support the examiners. The commissioner may pay the salaries of the financial institution examiners and administrative support personnel from the compliance resolution fund.
- (c) The compliance resolution fund also may be used to reimburse financial institution examiners and administrative support personnel for the following expenses necessarily incurred on account of an examination and the education and training of financial institution examiners and administrative support personnel:
  - (1) Actual travel expenses in amounts customary for these expenses and approved by the commissioner;
  - (2) A reasonable living expense allowance at a rate customary for these expenses and approved by the commissioner; and

- (3) Any fee or tuition necessary to attend educational and training conferences, workshops, seminars, and any similar events of this nature.
- (d) The compliance resolution fund also may be used for other expenses relating to examinations of financial institutions and administrative costs, including personnel costs of the division and costs incurred by supporting offices and divisions.

(e) All persons receiving any reimbursement or compensation from the compliance resolution fund shall submit to the commissioner for approval a detailed account of all expenses and compensation necessarily incurred. Persons shall not receive or accept any additional compensation on account of an examination. In the case of an examination, any reimbursement or compensation made by the fund and approved by the commissioner shall be charged to the financial institution being examined by the commissioner and all receipts shall be credited to the fund.

(f) Moneys in the compliance resolution fund shall not revert to the general fund.

~~[(g) The commissioner may annually charge each financial institution subject to examination by the commissioner the sum of \$500 plus \$100 for each office, agency, and branch office maintained by the financial institution, payment of which shall be made before July 2 and thereafter credited to the compliance resolution fund. The commissioner may establish, increase, decrease, or repeal this fee when necessary pursuant to rules adopted in accordance with chapter 91.]~~

SECTION 4. Section 412:3-201, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The application shall be submitted in a form prescribed by the commissioner. The commissioner may accept application forms that are utilized by any federal regulatory agency in processing similar applications. The application shall be accompanied by an application fee ~~[of \$9,000, or such greater amount as the commissioner shall establish by rule pursuant to chapter 91.]~~ assessed pursuant to section 412:2-105.2. The application fee shall not be refundable.”

SECTION 5. Section 412:3-212, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) If the commissioner is satisfied that the financial institution and, if applicable, its holding company have fulfilled all the requirements of law and the grounds for preliminary approval, and that the financial institution is qualified to engage in the business of a financial institution, the commissioner shall issue a written decision and order approving the application. The order may restrict the payment of dividends for a period of up to three years, and may contain any other conditions and restrictions on the financial institution that are in the public interest, including but not limited to the divestment of any contractual arrangement with an affiliate or subsidiary involving any type of business not permitted under this chapter. Upon the satisfactory fulfillment by the financial institution and, if applicable, its holding company of the conditions in the written decision and order approving the application ~~[and upon the payment by a depository financial services loan company of the initial license fee assessed pursuant to section 412:2-105.2],~~ the commissioner shall issue to the financial institution a charter or license to engage in the business of a financial institution under this chapter.”

SECTION 6. Section 412:3-503, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The institution shall file an application with the commissioner. The application shall be in a form prescribed by the commissioner and shall be accompanied by a fee ~~[the amount of which shall be established by rule.]~~ if required by section 412:2-105.2. The application shall contain the following information:

- (1) The name of the financial institution;
- (2) The specific location of the proposed site of the principal office, branch, or agency;
- (3) The anticipated opening date and, if open for a specified period, the end of such period;
- (4) The nature of the business or transactions intended to be carried on at the location;
- (5) Facts showing the necessity or justification for the proposed site and that there is a reasonable assurance of sufficient volume of business so that opening and maintaining the proposed business location will not jeopardize the solvency of the financial institution; and
- (6) Any other information that the commissioner may require.”

SECTION 7. Section 412:5-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any bank desiring to acquire any federal power[,] shall file an application with the commissioner. The application shall indicate the applicable federal statute, rule, regulation, interpretation or court decision, the extent of the federal power desired, the reasons for the application, and any other information requested by the commissioner. The commissioner may by rule prescribe the form of application ~~[and application filing fees].~~”

SECTION 8. Section 412:5-401, Hawaii Revised Statutes, is amended to read as follows:

“**§412:5-401 Required approval.** No intra-Pacific bank or intra-Pacific bank holding company may engage in business in this State, except in one of the following three forms:

- (1) Branch. An intra-Pacific bank may establish or acquire one or more branches in this State if it obtains the prior approval of the commissioner under this chapter to operate such branch or branches;
- (2) Subsidiary of an intra-Pacific bank. An intra-Pacific bank may establish or acquire, directly or indirectly, the assets of or control over or merge with a bank that is a Hawaii financial institution or its holding company if the intra-Pacific bank obtains the prior approval of the commissioner and:
  - (A) Complies with the requirements of this chapter as to mergers and acquisitions; and
  - (B) Obtains a charter under this chapter to engage in business as a bank;
- (3) Subsidiary of an intra-Pacific bank holding company. An intra-Pacific bank holding company may establish or acquire, directly or indirectly, the assets of or control over or merge with a bank that is a ~~[[Hawaii]]~~ financial institution or acquire control over or merge with, its holding company if the intra-Pacific bank holding company obtains the prior approval of the commissioner and:
  - (A) Complies with the requirements of this chapter as to mergers and acquisitions; ~~[and] or~~
  - (B) Obtains a charter under this chapter to engage in business as a bank.”



SECTION 9. Section 412:5A-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The application shall be on a form prescribed by the commissioner and shall contain any information that the commissioner may require. ~~[The application shall be accompanied by an application fee established by the commissioner pursuant to chapter 91.]~~”

SECTION 10. Section 412:6-204, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The savings bank shall file an application with the commissioner in a form approved by the commissioner. ~~[The application shall be accompanied by a fee, the amount of which shall be prescribed by rule.]~~ The application shall contain the following information concerning the proposed operating subsidiary:

- (1) The name and date for commencement of operations;
- (2) The specific location;
- (3) The activities and nature of business;
- (4) The ownership, amount, and nature of the investment; and
- (5) Any other information that the commissioner may require.”

SECTION 11. Section 412:7-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any savings and loan association desiring to acquire any federal power shall file an application with the commissioner. The application shall indicate the applicable federal statute, rule, regulation, interpretation or court decision, the extent of the federal power desired, the reasons for the application, and any other information requested by the commissioner. The commissioner may by rule prescribe the form of application ~~[and application filing fees]~~.”

SECTION 12. Section 412:7-204, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The savings and loan association shall file an application with the commissioner in a form approved by the commissioner. ~~[The application shall be accompanied by a fee, the amount of which shall be prescribed by rule.]~~ The application shall contain the following information concerning the proposed operating subsidiary:

- (1) The name and date for commencement of operations;
- (2) The specific location;
- (3) The activities and nature of business;
- (4) The ownership, amount, and nature of the investment; and
- (5) Any other information that the commissioner may require.”

SECTION 13. Section 412:10-103, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The application shall be submitted on a form prescribed by the commissioner. The application shall be accompanied by a fee ~~[as the commissioner shall establish by rule]~~ established by section 412:2-105.2, no part of which shall be refundable.”

SECTION 14. Section 412:10-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any credit union desiring to acquire any federal power~~[-]~~ shall file an application with the commissioner. The application shall indicate the applicable federal statute, rule, regulation, interpretation or court decision, the extent of the federal power desired, the reasons for the application, and any other infor-

mation requested by the commissioner. The commissioner may by rule prescribe the form of application [~~and application filing fees~~].”

SECTION 15. Section 412:13-222, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The foreign bank shall file an application with the commissioner. The application shall be in a form and contain any information as the commissioner shall require [~~and shall be accompanied by a fee, the amount of which shall be established by rule~~].”

SECTION 16. Section 412:10-125, Hawaii Revised Statutes, is repealed.

SECTION 17. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 18. This Act shall take effect upon its approval.

(Approved June 29, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 150**

H.B. NO. 1608

A Bill for an Act Relating to the University Of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$750,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the graduation pathway system.

The sum appropriated shall be expended by the University of Hawaii for the purposes of this Act.

SECTION 2. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

**ACT 151**

H.B. NO. 1814

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. No later than twenty days prior to the convening of the regular session of 2018, the department of education shall submit a report to the legislature regarding:

- (1) The department's progress toward implementing sections 302A-1141, 302A-1141.3, and 302A-1141.4, Hawaii Revised Statutes; and
- (2) The expenditure of the funds appropriated in section 2, including details of the training provided and the data accountability to assist with the implementation of sections 302A-1141, 302A-1141.3, and 302A-1141.4, Hawaii Revised Statutes.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$460,000 or so much thereof as may be necessary for fiscal year 2016-2017 to fund one full-time equivalent position (1.0 FTE) to provide training and data accountability to assist with the effective implementation of sections 302A-1141, 302A-1141.3 and 302A-1141.4, Hawaii Revised Statutes.

The sum appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

## ACT 152

S.B. NO. 2981

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. American Sign Language is a vital part of the linguistic heritage of the State that benefits and enriches hearing-impaired and non-hearing-impaired individuals. American Sign Language interpreters are routinely provided at private and state functions and events. Introduction to American Sign Language at an early age helps hearing-impaired individuals become confident in their identity and sets the stage for their personal success.

Although American Sign Language is the fourth most-popular language at colleges and universities in the United States, it is not currently recognized as a foreign language in Hawaii. This lack of recognition makes it difficult for Hawaii public schools to meet the needs of hearing-impaired students and to help students who are interested in studying American Sign Language in college to prepare for their studies. Forty-two states currently recognize American Sign Language as a foreign language and have incorporated it into public school curricula. The department of education uses the term "world language" in its course descriptions and graduation requirements.

The purpose of this Act is to recognize American Sign Language as a world language and to allow students who pass courses in American Sign Language to receive credit for those courses toward satisfaction of graduation requirements for world language.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

**"§302A- American Sign Language.** For purposes of this chapter, American Sign Language shall be recognized as a world language, and any public school may offer a course in American Sign Language. A student who successfully completes a course in American Sign Language shall be entitled to receive credit for that course toward satisfaction of a world language requirement of the public school at which the course is offered."

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 29, 2016.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## A Bill for an Act Relating to Sexual Assault.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 707-731, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of sexual assault in the second degree if:

- (a) The person knowingly subjects another person to an act of sexual penetration by compulsion;
- (b) The person knowingly subjects to sexual penetration another person who is mentally incapacitated or physically helpless; ~~or~~
- (c) The person, while employed:
  - (i) In a state correctional facility;
  - (ii) By a private company providing services at a correctional facility;
  - (iii) By a private company providing community-based residential services to persons committed to the director of public safety and having received notice of this statute;
  - (iv) By a private correctional facility operating in the State of Hawaii; or
  - (v) As a law enforcement officer as defined in section ~~§~~710-1000~~§~~, knowingly subjects to sexual penetration an imprisoned person, a person confined to a detention facility, a person committed to the director of public safety, a person residing in a private correctional facility operating in the State of Hawaii, or a person in custody; provided that paragraph (b) and this paragraph shall not be construed to prohibit practitioners licensed under chapter 453 or 455 from performing any act within their respective practices; and further provided that this paragraph shall not be construed to prohibit a law enforcement officer from performing a lawful search pursuant to a warrant or exception to the warrant clause~~[-]; or~~
- (d) The person knowingly subjects to sexual penetration a minor who is at least sixteen years old and the person is contemporaneously acting in a professional capacity to instruct, advise, or supervise the minor; provided that:
  - (i) The person is not less than five years older than the minor; and
  - (ii) The person is not legally married to the minor.”

SECTION 2. Section 707-733, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of sexual assault in the fourth degree if:

- (a) The person knowingly subjects another person to sexual contact by compulsion or causes another person to have sexual contact with the actor by compulsion;
- (b) The person knowingly exposes the person's genitals to another person under circumstances in which the actor's conduct is likely to alarm the other person or put the other person in fear of bodily injury; ~~or~~
- (c) The person knowingly trespasses on property for the purpose of

subjecting another person to surreptitious surveillance for the sexual gratification of the actor[-]; or

- (d) The person knowingly engages in or causes sexual contact with a minor who is at least sixteen years old and the person is contemporaneously acting in a professional capacity to instruct, advise, or supervise the minor; provided that:

- (i) The person is not less than five years older than the minor; and  
(ii) The person is not legally married to the minor."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

## ACT 154

H.B. NO. 1561

A Bill for an Act Relating to Nuisance Abatement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 712-1270, Hawaii Revised Statutes, is amended to read as follows:

**"§712-1270 Places used to commit offenses against public health and morals[-] or other offenses, a nuisance.** Every building, premises, or place used for the purpose of violating:

- (1) Those laws pertaining to offenses against public health and morals contained in this chapter, except offenses under part IV that do not involve the manufacture or distribution of drugs and activities under part III that involve only social gambling as defined in section 712-1231(a); [or]
- (2) Section 132D-14(a)(1) or (3)[-]; or
- (3) Any offense under part II of chapter 708 that involves a person unlawfully residing on or otherwise occupying real property to which the person has no title, lease, or other legal claim,

and every building, premises, or place in or upon which violations of any of the laws set forth in paragraph (1) [or], (2), or (3) are held or occur, is a nuisance that shall be enjoined, abated, and prevented, regardless of whether it is a public or private nuisance."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

## ACT 155

H.B. NO. 2671

A Bill for an Act Relating to Criminal Justice Data.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the reporting of comprehensive crime data is important to criminal justice agencies, elected officials, crime prevention groups, and the general public. The Federal Bureau of Investigation's uniform crime reporting program generates these reports and, in Hawaii, the program is administered by the crime prevention and justice assistance division's research and statistics branch of the department of the attorney general. The attorney general's primary sources of data are the county police departments, but the counties have not always been able to provide the necessary information in a timely manner. Although more than sixty-six per cent of states mandate the reporting of crime statistics, Hawaii does not. The United States Department of Justice is taking steps to ensure timely and accurate crime reporting, and it is critical that the State similarly ensures prompt and complete reporting.

The purpose of this Act is to assist the attorney general in the reporting of critical criminal justice data and to clarify the responsibilities of county police departments and state and county agencies with powers of arrest to provide all necessary data in a timely manner.

SECTION 2. Chapter 846, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§846- Statistical crime reporting responsibility of county chiefs of police and state and county agencies.** The chiefs of police of the counties and state and county agencies having the power of arrest shall provide to the attorney general crime incident reports and any other information regarding crimes committed within their respective jurisdictions as necessary for the attorney general to operate a statewide crime reporting program and to cooperate with the Federal Bureau of Investigation's uniform crime reporting program. The reports and information shall be submitted to the attorney general in the manner, form, and time schedule as the attorney general may prescribe.

The attorney general may audit the reporting entities to determine the accuracy of the reports and other information required by this section."

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 29, 2016.)

## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 156

H.B. NO. 1046

A Bill for an Act Relating to Wrongful Imprisonment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that wrongful convictions may be the result of many causes, including eyewitness misidentification, false confessions, improper forensic science, and government misconduct. A convicted person is

considered exonerated when the person is later officially declared innocent of the crime. Nationally, there are more than one thousand seven hundred persons listed on the National Registry of Exonerations, including three persons that were convicted in Hawaii.

The legislature also finds that innocent persons who have been wrongly convicted of crimes and subsequently imprisoned have been uniquely victimized, have distinct challenges re-entering society, and have difficulty achieving legal redress due to a variety of substantive and technical obstacles in the law. These individuals deserve an avenue of redress over and above the existing tort remedies to seek compensation for damages from the jurisdiction that convicted and imprisoned them. In light of the injustice of being imprisoned for a crime one did not commit, thirty states, the District of Columbia, and the federal government have adopted compensation statutes for wrongly imprisoned individuals.

The purpose of this Act is to ensure that those persons who were wrongfully convicted and imprisoned by the State receive, under appropriate circumstances, compensation.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
REDRESS FOR WRONGFUL CONVICTION AND IMPRISONMENT**

§ -1 **Statement of claim for compensation.** (a) Any person convicted in a court of the State and imprisoned for one or more crimes of which the person was actually innocent may file a petition for relief pursuant to this chapter for an award of damages against the State; provided that the requirements of subsection (b) are met.

(b) To present an actionable claim against the State for wrongful conviction and imprisonment, the petitioner shall allege that the petitioner was convicted of one or more crimes under the laws of the State, was subsequently sentenced to a term of imprisonment, and has served all or any part of the sentence and either that:

- (1) The judgment of conviction was reversed or vacated because the petitioner was actually innocent of the crimes for which the petitioner was convicted, and the court decision so states; or
- (2) The petitioner was pardoned because the petitioner was actually innocent of the crimes for which the petitioner was convicted and the pardon so states.

§ -2 **Presentation of claim.** (a) A petition for relief filed pursuant to this chapter shall be filed in the circuit court of the circuit in which the petitioner lives, or if the petitioner lives outside the State, in the circuit court of the first circuit. The petitioner shall serve the petition upon the attorney general, and if the prosecuting authority was other than the attorney general, upon the prosecuting authority. The petition shall set forth the facts and authority that support the petitioner's claim.

(b) No later than sixty days after service, the attorney general shall file with the court an answer that shall either admit that the petitioner is entitled to compensation or deny the petitioner's claim.

If the attorney general admits that the petitioner is entitled to compensation, the court shall conduct a trial to determine the amount of compensation; provided that if the attorney general and the petitioner agree on the amount of the compensation, the court may issue a final judgment awarding the petitioner

the amount agreed upon or, in its discretion, conduct a trial to determine the amount to award the petitioner.

If the attorney general denies that the petitioner is entitled to compensation, then the court shall conduct a trial to determine if the petitioner is entitled to compensation and the amount, if any.

(c) Notwithstanding any other provision of law to the contrary, no person shall be allowed to intervene in the proceeding; provided that if the attorney general did not obtain the conviction of the petitioner, then the prevailing prosecuting authority may state its position on the petitioner's claim in a statement to the court. If the attorney general did not obtain the conviction of the petitioner, then the prevailing prosecuting authority shall provide the attorney general with any information or assistance that the attorney general may request.

(d) Any action against the State under this chapter shall be tried by the court without a jury; provided that the court, with the consent of all the parties, may order a trial with a jury whose verdict shall have the same effect as if trial by jury had been a matter of right.

**§ -3 Judgment and award.** (a) The petitioner shall have the burden to prove by a preponderance of the evidence:

- (1) That the petitioner is eligible to seek compensation in accordance with the requirements set forth in section -1;
- (2) That the petitioner was convicted in a court of the State and subsequently imprisoned for one or more crimes, but the petitioner was actually innocent of the crimes at issue; and
- (3) That the petitioner served time in prison for the crime or crimes, including time served prior to conviction, if any.

(b) The following shall be affirmative defenses, on which the State shall have the burden of proof by a preponderance of the evidence:

- (1) The petitioner was serving a term of imprisonment for another crime, including crimes under the laws of the United States, concurrently with imprisonment for the crime or crimes for which petitioner was actually innocent; provided that if the petitioner served additional time in prison due to the conviction that is the basis of the petition, then the petitioner shall receive compensation for that portion of the time served in prison during which the petitioner was serving no other sentence;
- (2) The petitioner committed perjury or fabricated evidence or induced another person to commit perjury or fabricate evidence to cause or bring about the conviction at issue;
- (3) The petitioner fabricated evidence or committed or suborned perjury during any proceeding related to the crime for which the petitioner was convicted;
- (4) The petitioner solicited the commission of the crime at issue or any crime factually related to the crime at issue;
- (5) The petitioner conspired to commit the crime at issue or any crime factually related to the crime at issue;
- (6) The petitioner attempted to commit the crime at issue or any crime factually related to the crime at issue;
- (7) The petitioner assisted in the commission of the crime at issue or any crime factually related to the crime at issue; or
- (8) The petitioner assisted any person to avoid apprehension, arrest, or conviction for the crime at issue or any crime factually related to the crime at issue.



If the State proves one or more of the affirmative defenses enumerated in this subsection, the petitioner shall receive no compensation except as provided in paragraph (1).

(c) If the court finds that the petitioner has proven a claim for wrongful conviction and imprisonment, the court shall award the petitioner \$50,000 for each year of actual confinement, including time spent awaiting trial, served by the petitioner for the crime or crimes for which the petitioner was actually innocent; provided that:

- (1) The petitioner shall not be compensated for the time imprisoned if the petitioner was concurrently imprisoned for a different conviction, even if the other conviction was related to the conviction that was vacated or reversed or for which the petitioner was pardoned because of actual innocence;
- (2) The award shall be pro-rated for partial years of imprisonment; and
- (3) If the court finds, by a preponderance of the evidence, extraordinary circumstances pertain to a conviction that is set aside or a pardon that is granted because of actual innocence, the court may award the petitioner a maximum of \$100,000 in additional compensation.

(d) The court shall award reasonable attorneys' fees not to exceed \$10,000 for fees incurred in preparing and prosecuting the claim for the prevailing petitioner. The attorney for the petitioner shall not charge, demand, receive, or collect fees for services rendered in excess of twenty-five per cent of any amount awarded by the circuit court.

(e) In an action under this chapter, court costs and fees as established by law may be allowed to the prevailing party.

(f) On all moneys awarded to the petitioner for claims instituted under this chapter, interest shall be computed at the rate of four per cent a year from the date of judgment up to, but not exceeding, thirty days after the date of approval of any appropriation act providing for payment of the judgment.

(g) Any moneys awarded to the petitioner for claims instituted under this chapter, other than for attorneys' fees, shall not be subject to any tax by the State or any county, including any income or general excise tax, any law to the contrary notwithstanding.

**§ -4 Time limitations.** Every claim arising under this chapter shall forever be barred unless the action is commenced by filing a petition with the circuit court within two years after the conviction that is the subject of the petition is either reversed or vacated, or the petitioner is pardoned for that conviction; provided that:

- (1) If the claim is based on a conviction reversed or vacated or a pardon granted prior to the effective date of this chapter, the claim shall be commenced by filing a petition with the circuit court no later than July 1, 2018, or be forever barred; and
- (2) Notwithstanding any other law to the contrary, this limitation of actions shall not be tolled for any reason.

**§ -5 Right of appeal.** Review of any final judgment of the circuit court shall be governed by chapter 602.

**§ -6 Waiver of sovereign immunity.** This chapter shall constitute a waiver of sovereign immunity by the State only for the claims brought pursuant to this chapter. The State makes no other waiver of sovereign immunity, and fully retains its sovereign immunity as to all other claims, however denominated, that seek compensation of any kind or nature that are a result of, related to, or

arise from a conviction and imprisonment for crimes for which the claimant alleges actual innocence. This section shall be broadly construed in favor of the State and against any waiver of sovereign immunity.

§ -7 **Exclusive remedy.** (a) Notwithstanding any other law, including the common law, to the contrary, this chapter sets forth the exclusive remedy for any person seeking compensation of any kind or nature whatsoever, as a result of, related to, or arising from a conviction and imprisonment for crimes for which the person was actually innocent. This section shall be strictly construed in favor of any person against whom a claim is asserted, and against the person asserting the claim.

(b) Notwithstanding any law to the contrary, should the petitioner die before a final judgment in the circuit court is entered, the petitioner's claim shall abate in its entirety."

SECTION 3. Section 831-3.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The attorney general, or the attorney general's duly authorized representative within the department of the attorney general, upon written application from a person arrested for, or charged with but not convicted of a crime, or found eligible for redress under chapter, shall issue an expungement order annulling, canceling, and rescinding the record of arrest; provided that an expungement order shall not be issued:

- (1) In the case of an arrest for a felony or misdemeanor where conviction has not been obtained because of bail forfeiture;
- (2) For a period of five years after arrest or citation in the case of a petty misdemeanor or violation where conviction has not been obtained because of a bail forfeiture;
- (3) In the case of an arrest of any person for any offense where conviction has not been obtained because the person has rendered prosecution impossible by absenting oneself from the jurisdiction;
- (4) In the case of a person acquitted by reason of a mental or physical defect under chapter 704; and
- (5) For a period of one year upon discharge of the defendant and dismissal of the charge against the defendant in the case of a deferred acceptance of guilty plea or nolo contendere plea, in accordance with chapter 853.

Any person entitled to an expungement order ~~[hereunder]~~ under this section may by written application also request return of all fingerprints or photographs taken in connection with the person's arrest. The attorney general or the attorney general's duly authorized representative within the department of the attorney general, within ~~[120]~~ one hundred twenty days after receipt of the written application, shall, when ~~[sø]~~ requested, deliver, or cause to be delivered, all fingerprints or photographs of the person, unless the person has a record of conviction or is a fugitive from justice, in which case the photographs or fingerprints may be retained by the agencies holding ~~[such]~~ the records."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 29, 2016.)

A Bill for an Act Relating to Sentencing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 706-606.4, Hawaii Revised Statutes, is amended to read as follows:

**“§706-606.4 Sentencing in enumerated offenses [involving abuse of a family or household member] committed in the presence of a minor.** (1) In addition to the factors considered under section 706-606, the court shall consider the following aggravating factors in determining the particular sentence to be imposed:

- (a) The defendant has been convicted of committing or attempting to commit an offense [involving abuse of a family or household member;
- (b) The defendant is or has been a family or household member of either a minor referred to in paragraph (c) or the victim of the offense]; and
- [(c)] (b) The offense contemporaneously occurred in the presence of a minor.

(2) As used in this section:

["Family or household member" has the same meaning as defined in section 709-906.]

"In the presence of a minor" means in the actual physical presence of a child or knowing that a child is present and may hear or see the offense.

"Offense" means a violation of section 707-710 (assault in the first degree), 707-711 (assault in the second degree), 707-730 (sexual assault in the first degree), 707-731 (sexual assault in the second degree), 707-732 (sexual assault in the third degree), or 709-906 (abuse of family or household members)."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 29, 2016.)

A Bill for an Act Relating to Governmental Travel.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 78, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§78- Payment of approved travel costs for public officers and employees.** (a) This section shall apply to all approved travel costs incurred by an officer or employee of the State or a county in connection with the official business of the respective jurisdiction.

(b) Subject to subsection (d), the State and the counties may pay approved travel costs directly to:

- (1) The vendor providing the goods or services involved; or
- (2) The officer or employee for whom the approved travel costs are to be paid, by way of a cash advance prior to the date of purchase, unless the officer or employee affirmatively agrees to loan the State or a county the money for the travel costs and be reimbursed after the officer or employee pays for the travel costs.

(c) This section shall not be construed as precluding the reimbursement of approved travel costs to an officer or employee upon completion of travel for any costs that for any reason were not paid by the State or the county, as applicable, in accordance with subsection (b).

(d) As pertains to the officer or employee incurring approved travel costs, whenever there is a conflict between a collective bargaining agreement and this section, the terms of the collective bargaining agreement shall prevail.

(e) For the purposes of this section, “approved travel costs” means any determinable costs of travel for official state or county business approved by the respective jurisdiction and supported by a written invoice. The term includes the costs of transportation to and from a destination point, between destination points, or within a destination point; event registration fees; per diem allowances; and any other necessary costs related to the travel.

(f) An employer shall not take adverse employment actions against an officer or employee who does not affirmatively agree to loan the State or a county the money for the travel costs and be reimbursed after the officer or employee pays for the travel costs.”

SECTION 2. Section 46-25.5, Hawaii Revised Statutes, is amended to read as follows:

**“~~§46-25.5~~ Expenses.** Subject to section 78- and procedures prescribed by the director of finance of the county and approved by the mayor, all officers and employees of each county shall be entitled to travel or other necessary expenses in the performance of their official duties as provided by ordinance.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Witnesses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the per diem stipend amount for out-of-state witnesses increased slightly in 2014, after remaining static for many years. Because the per diem stipend amount has not been adjusted to keep pace with actual cost of overnight expenses in Hawaii, including the cost of lodging or food, it has emerged as an economic barrier that either discourages or prevents an out-of-state witness from pursuing charges against offenders due to economic considerations. Often these individuals are forced to take money out of their own pockets to cover necessary personal expenses when subpoenaed to return to the State as a witness in state court proceedings. The legislature also finds that the per diem stipend amount for witnesses that are required to travel to a different island is also not sufficient to cover the witness' personal expenses when that witness is required to stay overnight.

The purpose of this Act is to increase the amount of per diem stipends for out-of-state witnesses as well as make available additional amounts of per diem stipends for a witness who must travel to another island, if that witness is required to stay overnight.

SECTION 2. Section 621-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every witness legally required to attend a state court or grand jury in any criminal case, other than a public officer or employee, shall be entitled to \$20 for each day's attendance and a reasonable mileage fee to be established pursuant to rules adopted by the judiciary for each mile actually and necessarily traveled on the ground each way, including travel to and from the nearest airport when required to travel from another island or from outside the State.

In addition to witness' fees, every witness:

- (1) Who attends a state court from outside the State shall be entitled to the actual round-trip cost of plane travel, plus ~~[\$145]~~ \$200 per twenty-four-hour day; or
- (2) Who attends a state court from any island in the State other than that on which the court holds session shall be entitled to the actual round-trip cost of plane travel, plus \$55 per twenty-four-hour day; provided that when the witness is required to stay overnight, the witness shall be entitled to an additional ~~[\$90]~~ \$145 per twenty-four-hour day.

These per diem payments shall cover all personal expenses, such as board and lodging, and shall be computed on the basis of quarter day periods of time.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 29, 2016.)

## ACT 160

S.B. NO. 2108

A Bill for an Act Relating to Criminal Process.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 806D-1, Hawaii Revised Statutes, is amended by amending the definition of "criminal process" to read as follows:

"Criminal process" means a search warrant or legal process issued pursuant to chapters 28, 621, 622, and 803; the Hawaii rules of penal procedure; and any other legal process signed by a judge or clerk of the district or circuit court and issued in a criminal matter ~~[which]~~ that allows the search for or commands production of records that are in the actual or constructive possession of the recipient, regardless of whether the recipient or the records are physically located within the State."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 29, 2016.)

## ACT 161

S.B. NO. 2196

A Bill for an Act Relating to the Law Enforcement Officer Independent Review Board.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 28, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . LAW ENFORCEMENT OFFICER INDEPENDENT REVIEW BOARD**

**§28-A Definitions.** As used in this part:

"Board" means the law enforcement officer independent review board established by section 28-B.

"Law enforcement agency" means any county police department, the department of public safety, and any state or county public body that employs law enforcement officers.

"Law enforcement officer" means a sheriff, deputy sheriff, police officer, enforcement officer within the department of land and natural resources conservation and resources enforcement program, enforcement officer within the department of transportation harbors division, and any other employee of a state or county public body who carries a badge and firearm and has powers of arrest.

"Officer-involved death" means a death of an individual that results directly from an act or omission of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off duty but

performing activities that are within the scope of the officer's law enforcement duties.

**§28-B Law enforcement officer independent review board; established.** (a)

There is established a law enforcement officer independent review board that is placed within the department of the attorney general for administrative purposes only. The board shall be responsible for reviewing criminal investigations of incidents of officer-involved death conducted by law enforcement agencies and issuing recommendations to the prosecuting attorney of the county in which the incident occurred.

(b) The board shall consist of nine members as follows:

- (1) One deputy attorney general;
- (2) One former prosecuting attorney or deputy prosecuting attorney who served in that capacity with the department of the prosecuting attorney for the city and county of Honolulu;
- (3) One former prosecuting attorney or deputy prosecuting attorney who served in that capacity with the department of the prosecuting attorney for the county of Maui;
- (4) One former prosecuting attorney or deputy prosecuting attorney who served in that capacity with the office of the prosecuting attorney for Hawaii county;
- (5) One former prosecuting attorney or deputy prosecuting attorney who served in that capacity with the office of the prosecuting attorney for the county of Kauai;
- (6) One retired justice or judge of a state court in the State to be appointed by the governor without regard to the requirements of section 26-34;
- (7) One former chief of police, former sheriff, former chief deputy chief of police, or former chief deputy sheriff to be appointed by the governor without regard to the requirements of section 26-34; and
- (8) Two community members to be appointed as follows:
  - (A) One community member to be appointed by the governor without regard to the requirements of section 26-34; and
  - (B) One community member to be appointed by the attorney general;

provided that the community members shall not have law enforcement or criminal justice experience.

(c) Except for members designated by subsection (b)(8), each member of the board shall have at least five years' experience investigating, prosecuting, or presiding over criminal cases involving death.

(d) Unless otherwise provided, the members of the board shall be appointed by the attorney general.

(e) The members of the board shall serve without compensation for terms specified by the appointing authority, but shall be reimbursed for expenses, including travel expenses, incurred in the performance of their duties.

(f) Notwithstanding any law to the contrary, no member shall be liable in any civil action founded upon a statute or the case law of this State, for damage, injury, or loss caused by or resulting from the member's performance of failure to perform any duty that is required or authorized to be performed by a person holding the position to which the member was appointed, unless the member acted with a malicious or improper purpose, except when the plaintiff in a civil action is the State.

**§28-C Review of incidents of officer-involved death.** (a) Each law enforcement agency in the State shall have a written policy regarding the investigation of incidents of officer-involved death.

(b) In the event of any incident of officer-involved death, each law enforcement agency shall be responsible for conducting a criminal investigation of the law enforcement officer or officers involved in the incident.

(c) Each law enforcement agency conducting the criminal investigation of the officer-involved death shall disclose to the board the final disposition of the law enforcement agency's criminal investigation and all related reports, documents, and information for the purposes of the board's review.

(d) Once the board receives the final disposition of the law enforcement agency's criminal investigation and all related reports, documents, and information pursuant to subsection (c), the board shall review all matters submitted to evaluate the fairness of the criminal investigation and to determine whether, in the board's opinion, criminal prosecution or further investigation may be warranted.

(e) Each law enforcement agency of the State and all of its counties shall cooperate with and assist the board in the performance of its duties, except that the board shall not have access to physical evidence.

(f) The board shall expeditiously make recommendations to the prosecuting attorney of the county in which the officer-involved death occurred, however, the prosecuting attorney is not required to wait for the recommendation before making a determination to prosecute or decline prosecution. The board's recommendations shall consist of the board's determination that the prosecuting attorney should:

- (1) Prosecute;
- (2) Decline prosecution; or
- (3) Conduct further investigation.

The board's recommendations shall not be binding upon the prosecuting attorney and shall have no effect on any determination of probable cause that may be made, at any time.

(g) Subject to subsection (h), all matters submitted to the board pursuant to subsection (c) and all proceedings and recommendations of the board shall be confidential. All records, documents, and information in the possession of the board or maintained by the board shall not be subject to discovery or disclosure in any civil or criminal proceedings or to a request for disclosure pursuant to chapters 92 and 92F. The scope of this subsection shall be limited solely to the proceedings and recommendations of the board and any records, documents, and information in the board's possession, and this subsection shall not extend to any records, documents, or information in the possession of another government agency.

(h) Once the board has issued the board's recommendations pursuant to subsection (f) and any criminal prosecution or proceedings in the State related to the officer-involved death have been adjudicated, the board shall release the board's recommendations and any accompanying reports, documents, and information, unless otherwise prohibited by law.

(i) Nothing in this part shall be construed to create a private right of action."

SECTION 2. Section 712A-16, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

"(4) There is established in the department of the attorney general a revolving fund to be known as the criminal forfeiture fund, hereinafter referred to as the "fund" in which shall be deposited one-half of the proceeds of a forfeiture



and any penalties paid pursuant to section 712A-10(6). All moneys in the fund shall be expended by the attorney general and are ~~hereby~~ appropriated for the following purposes:

- (a) The payment of any expenses necessary to seize, detain, appraise, inventory, safeguard, maintain, advertise, or sell property seized, detained, or forfeited pursuant to this chapter or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property and such contract services and payments to reimburse any federal, state, or county agency for any expenditures made to perform the foregoing functions;
- (b) The payment of awards for information or assistance leading to a civil or criminal proceeding;
- (c) The payment of supplemental sums to state and county agencies for law enforcement purposes;
- (d) The payment of expenses arising in connection with programs for training and education of law enforcement officers; ~~and~~
- (e) The payment of expenses arising in connection with enforcement pursuant to the drug nuisance abatement unit in the department of the attorney general~~[-]; and~~
- (f) The payment of expenses arising in connection with the law enforcement officer independent review board in the department of the attorney general."

SECTION 3. The law enforcement officer independent review board shall review its activities pursuant to this Act and submit a report to the legislature of its findings and recommendations, including any proposed legislation, no later than twenty days prior to the convening of the regular session of 2022.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the establishment of the law enforcement officer independent review board and expenses arising in connection with the board.

The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.

SECTION 5. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2017; provided that:

- (1) Section 4 of this Act shall take effect on July 1, 2016;
- (2) The sum appropriated by section 4 of this Act shall serve as the source of funding for the establishment of the law enforcement officer independent review board and expenses arising in connection with the board; and
- (3) This Act shall be repealed on June 30, 2022, and section 712A-16, Hawaii Revised Statutes, shall be reenacted in the form in which it read on June 30, 2017.

(Approved June 29, 2016.)

A Bill for an Act Relating to the Uniform Fiduciary Access to Digital Assets Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT**

§ -1 **Short title.** This chapter may be cited as the Uniform Fiduciary Access to Digital Assets Act (2016).

§ -2 **Definitions.** In this chapter:

“Account” means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

“Agent” means an attorney-in-fact granted authority under a durable or nondurable power of attorney.

“Carries” means engages in the transmission of an electronic communication.

“Catalogue of electronic communications” means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person.

“Conservator” means a person appointed by a court to manage the estate of a living individual. The term includes a limited conservator.

“Content of an electronic communication” means information concerning the substance or meaning of the communication which:

- (1) Has been sent or received by a user;
- (2) Is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and
- (3) Is not readily accessible to the public.

“Court” means the circuit court in this State having jurisdiction in matters relating to powers of attorney, in the case of a fiduciary or agent acting under a will or power of attorney; a circuit court in this State having jurisdiction in matters relating to the affairs of decedents, in the case of a personal representative; a circuit court in this State having jurisdiction in matters relating to the affairs of decedents or the family court, depending on which court has subject matter jurisdiction under section 560:5-106, in the case of a conservatorship; or a court that has jurisdiction under section 560:7-204, in the case of a trustee acting under a trust.

“Custodian” means a person that carries, maintains, processes, receives, or stores a digital asset of a user.

“Designated recipient” means a person chosen by a user using an online tool to administer digital assets of the user.

“Digital asset” means an electronic record in which an individual has a right or interest. The term does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“Electronic communication” has the meaning set forth in title 18 U.S.C. section 2510(12).

“Electronic communication service” means a custodian that provides to a user the ability to send or receive an electronic communication.

“Fiduciary” means an original, additional, or successor personal representative, conservator, agent, or trustee.

“Information” means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

“Online tool” means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

“Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

“Personal representative” means an executor, administrator, special administrator, or person that performs substantially the same function under the law of this State other than this chapter.

“Power of attorney” means a record that grants an agent authority to act in the place of a principal.

“Principal” means an individual who grants authority to an agent in a power of attorney.

“Protected person” means an individual for whom a conservator has been appointed. The term includes an individual for whom an application for the appointment of a conservator is pending.

“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“Remote computing service” means a custodian that provides to a user computer-processing services or the storage of digital assets by means of an electronic communications system, as defined in title 18 U.S.C. section 2510(14).

“Terms-of-service agreement” means an agreement that controls the relationship between a user and a custodian.

“Trustee” means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. The term includes a successor trustee.

“User” means a person that has an account with a custodian.

“Will” includes a codicil, testamentary instrument that only appoints an executor, and instrument that revokes or revises a testamentary instrument.

**§ -3 Applicability.** (a) This chapter applies to:

- (1) A fiduciary acting under a will or power of attorney executed before, on, or after the effective date of this Act;
- (2) A personal representative acting for a decedent who died before, on, or after the effective date of this Act;
- (3) A conservatorship proceeding commenced before, on, or after the effective date of this Act; and
- (4) A trustee acting under a trust created before, on, or after the effective date of this Act.

(b) This chapter applies to a custodian if the user resides in this State or resided in this State at the time of the user’s death.

(c) This chapter does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer’s business.

**§ -4 User direction for disclosure of digital assets.** (a) A user may use an online tool to direct the custodian to disclose to a designated recipient or not to disclose some or all of the user's digital assets, including the content of electronic communications. If the online tool allows the user to modify or delete a direction at all times, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

(b) If a user has not used an online tool to give direction under subsection (a) or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney, or other record, disclosure to a fiduciary of some or all of the user's digital assets, including the content of electronic communications sent or received by the user.

(c) A user's direction under subsection (a) or (b) overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms of service.

**§ -5 Terms-of-service agreement.** (a) This chapter does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user.

(b) This chapter does not give a fiduciary or designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents.

(c) A fiduciary's or designated recipient's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under section -4.

**§ -6 Procedure for disclosing digital assets.** (a) When disclosing digital assets of a user under this chapter, the custodian may at its sole discretion:

- (1) Grant a fiduciary or designated recipient full access to the user's account;
- (2) Grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or
- (3) Provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

(b) A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this chapter.

(c) A custodian need not disclose under this chapter a digital asset deleted by a user.

(d) If a user directs or a fiduciary requests a custodian to disclose under this chapter some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose:

- (1) A subset limited by date of the user's digital assets;
- (2) All of the user's digital assets to the fiduciary or designated recipient;
- (3) None of the user's digital assets; or
- (4) All of the user's digital assets to the court for review in camera.

**§ -7 Disclosure of content of electronic communications of deceased user.** If a deceased user consented or a court directs disclosure of the contents

of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the personal representative gives the custodian:

- (1) A written request for disclosure in physical or electronic form;
- (2) A certified copy of the death certificate of the user;
- (3) A certified copy of the letter of appointment of the personal representative or a small estate affidavit or court order;
- (4) Unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications; and
- (5) If requested by the custodian:
  - (A) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;
  - (B) Evidence linking the account to the user; or
  - (C) A finding by the court that:
    - (i) The user had a specific account with the custodian, identifiable by the information specified in subparagraph (A);
    - (ii) Disclosure of the content of electronic communications of the user would not violate title 18 U.S.C. section 2701 et seq., title 47 U.S.C. section 222, or other applicable law;
    - (iii) Unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or
    - (iv) Disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

**§ -8 Disclosure of other digital assets of deceased user.** Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalogue of electronic communications sent or received by the user and digital assets, other than the content of electronic communications, of the user, if the personal representative gives the custodian:

- (1) A written request for disclosure in physical or electronic form;
- (2) A certified copy of the death certificate of the user;
- (3) A certified copy of the letter of appointment of the personal representative or a small estate affidavit or court order; and
- (4) If requested by the custodian:
  - (A) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;
  - (B) Evidence linking the account to the user;
  - (C) An affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or
  - (D) A finding by the court that:
    - (i) The user had a specific account with the custodian, identifiable by the information specified in subparagraph (A); or
    - (ii) Disclosure of the user's digital assets is reasonably necessary for administration of the estate.

**§ -9 Disclosure of content of electronic communications of principal.**

To the extent a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the agent the content if the agent gives the custodian:

- (1) A written request for disclosure in physical or electronic form;
- (2) An original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;
- (3) A certification by the agent, under penalty of perjury, that the power of attorney is in effect; and
- (4) If requested by the custodian:
  - (A) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or
  - (B) Evidence linking the account to the principal.

**§ -10 Disclosure of other digital assets of principal.**

Unless otherwise ordered by the court, directed by the principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalogue of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications, of the principal if the agent gives the custodian:

- (1) A written request for disclosure in physical or electronic form;
- (2) An original or a copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal;
- (3) A certification by the agent, under penalty of perjury, that the power of attorney is in effect; and
- (4) If requested by the custodian:
  - (A) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or
  - (B) Evidence linking the account to the principal.

**§ -11 Disclosure of digital assets held in trust when trustee is original user.**

Unless otherwise ordered by the court or provided in a trust, a custodian shall disclose to a trustee that is an original user of an account any digital asset of the account held in trust, including a catalogue of electronic communications of the trustee and the content of electronic communications.

**§ -12 Disclosure of contents of electronic communications held in trust when trustee not original user.**

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic communication sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian:

- (1) A written request for disclosure in physical or electronic form;
- (2) A certified copy of the trust instrument that includes consent to disclosure of the content of electronic communications to the trustee;
- (3) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

- (4) If requested by the custodian:
  - (A) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or
  - (B) Evidence linking the account to the trust.

**§ -13 Disclosure of other digital assets held in trust when trustee not original user.** Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose, to a trustee that is not an original user of an account, a catalogue of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest if the trustee gives the custodian:

- (1) A written request for disclosure in physical or electronic form;
- (2) A certified copy of the trust instrument;
- (3) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and
- (4) If requested by the custodian:
  - (A) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or
  - (B) Evidence linking the account to the trust.

**§ -14 Disclosure of digital assets to conservator of protected person.** (a) After an opportunity for a hearing under section 560:5-410 or section 560:5-414, the court may grant a conservator access to the digital assets of a protected person.

(b) Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a conservator the catalogue of electronic communications sent or received by a protected person and any digital assets, other than the content of electronic communications, in which the protected person has a right or interest if the conservator gives the custodian:

- (1) A written request for disclosure in physical or electronic form;
- (2) A certified copy of the court order that gives the conservator authority over the digital assets of the protected person; and
- (3) If requested by the custodian:
  - (A) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the protected person; or
  - (B) Evidence linking the account to the protected person.

(c) A conservator with general authority to manage the assets of a protected person may request a custodian of the digital assets of the protected person to suspend or terminate an account of the protected person for good cause. A request made under this section shall be accompanied by a certified copy of the court order giving the conservator authority over the protected person's property.

**§ -15 Fiduciary duty and authority.** (a) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including:

- (1) The duty of care;
- (2) The duty of loyalty; and
- (3) The duty of confidentiality.

(b) A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

- (1) Except as otherwise provided in section -4, is subject to the applicable terms of service;
- (2) Is subject to other applicable law, including copyright law;
- (3) In the case of a fiduciary, is limited by the scope of the fiduciary's duties; and
- (4) May not be used to impersonate the user.

(c) A fiduciary with authority over the property of a decedent, protected person, principal, or settlor has the right to access any digital asset in which the decedent, protected person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

(d) A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, protected person, principal, or settlor for the purpose of applicable computer fraud and unauthorized computer access laws, including part IX of chapter 708.

(e) A fiduciary with authority over the tangible, personal property of a decedent, protected person, principal, or settlor:

- (1) Has the right to access the property and any digital asset stored in it; and
- (2) Is an authorized user for the purpose of computer fraud and unauthorized computer access laws, including part IX of chapter 708.

(f) A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

(g) A fiduciary of a user may request a custodian to terminate the user's account. A request for termination must be in writing, in either physical or electronic form, and accompanied by:

- (1) If the user is deceased, a certified copy of the death certificate of the user;
- (2) A certified copy of the letter of appointment of the representative or a small estate affidavit or court order, court order, power of attorney, or trust giving the fiduciary authority over the account; and
- (3) If requested by the custodian:
  - (A) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;
  - (B) Evidence linking the account to the user; or
  - (C) A finding by the court that the user had a specific account with the custodian, identifiable by the information specified in subparagraph (A).

**§ -16 Custodian compliance and immunity.** (a) Not later than sixty days after receipt of the information required under sections -7 through -15, a custodian shall comply with a request under this chapter from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply to the court for an order directing compliance.

(b) An order under subsection (a) directing compliance shall contain a finding that compliance is not in violation of title 18 U.S.C. section 2702.

(c) A custodian may notify the user that a request for disclosure or to terminate an account was made under this chapter.

(d) A custodian may deny a request under this chapter from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account



if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request.

(e) This chapter does not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under this chapter to obtain a court order that:

- (1) Specifies that an account belongs to the protected person or principal;
- (2) Specifies that there is sufficient consent from the protected person or principal to support the requested disclosure; and
- (3) Contains a finding required by law other than this chapter.

(f) A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this chapter.

**§ -17 Relation to Electronic Signatures in Global and National Commerce Act.** This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, title 15 U.S.C. section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that Act, title 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, title 15 U.S.C. section 7003(b)."

SECTION 2. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

## ACT 163

S.B. NO. 2812

A Bill for an Act Relating to Charitable Solicitation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 467B-1, Hawaii Revised Statutes, is amended by amending the definitions of "professional fund-raising counsel" or "professional fundraising counsel" and "solicit" and "solicitation" to read as follows:

"Professional fund-raising counsel" or "professional fundraising counsel" means any person who, for compensation, plans, conducts, manages, advises, consults, or prepares material for, or with respect to, the solicitation of contributions in this State for a charitable organization, but who actually solicits no contributions as a part of the person's services, and who does not employ, procure, or engage any compensated person to solicit contributions. The term shall not include a bona fide volunteer, salaried officer, or employee of a charitable organization~~[-], or a person if the only services performed by the person are to plan, conduct, manage, advise, consult, or prepare grant or subsidy application materials for a charitable organization.~~

"Solicit" and "solicitation" mean a request directly or indirectly for money, credit, property, financial assistance, or thing of value on the plea or representation that the money, credit, property, financial assistance, or thing of value, or any portion thereof, will be used for a charitable purpose or to benefit a charitable organization. These terms shall include the following:

- (1) Any oral or written request~~[[;]]~~
- (2) The making of any announcement to any organization for the purpose of further dissemination, including announcements to the press, over the radio or television, or by telephone, telegraph, or fac-

simile, concerning an appeal or campaign by or for any charitable organization or purpose[[];[]]

- (3) The distribution, circulation, posting, or publishing of any handbill, written advertisement, or other publication that directly or by implication seeks to obtain public support[[];[]]
- (4) Where the sale or offer or attempted sale, of any advertisement, advertising space, book, card, tag, coupon, device, magazine, membership, merchandise, subscription, flower, ticket, candy, cookies, or other tangible item in connection with which any appeal is made for any charitable organization or purpose; or where the name of any charitable organization is used or referred to in any appeal as an inducement or reason for making any sale; or where in connection with any sale, any statement is made that the whole or any part of the proceeds from any sale will be used for any charitable purpose or to benefit any charitable organization[[];[]] and
- (5) A request made through the use of receptacles for contributions such as honor boxes, vending machines, wishing wells, contribution boxes, and novelty machines, where a charitable appeal is used or referred to or implied as an inducement or reason to contribute.

A solicitation occurs whether or not the person making the solicitation receives any contribution. However, the term shall not include the submission of a grant or subsidy proposal or application to a governmental authority or any organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

SECTION 2. Section 467B-1.5, Hawaii Revised Statutes, is amended to read as follows:

~~“[§467B-1.5] Professional solicitors; required disclosures. [A professional solicitor who makes an oral solicitation by telephone, door-to-door, or otherwise shall furnish to each contributor, prior to collecting or attempting to collect any contribution, a written confirmation of the expected contribution, containing the following information clearly and conspicuously:~~

- ~~(1) The full legal name, address, and telephone number of the individual professional solicitor who directly communicated with the contributor; and~~
- ~~(2) A disclosure that the contribution is not tax deductible, if applicable, or, if the professional solicitor maintains that the contribution is tax deductible in whole or in part, the portion of the contribution that the professional solicitor maintains is tax deductible.]~~
- (a) Every professional solicitor, and every employee or agent thereof, who solicits contributions from a prospective donor or contributor in this State shall at the outset of any oral or written request for a contribution:
  - (1) Identify themselves by their true surname and first name, and the name of their employer or the contractor as the case may be, that is compensating the individual making the solicitation;
  - (2) Identify the name of the professional solicitor registered with the department of the attorney general that has contracted with the charitable organization to provide the solicitation services and, if the individual is employed by a subcontractor, the name of the registered subcontractor;
  - (3) Disclose that the person making the oral or written request for a donation is being paid to make such solicitation and the name of

the charitable organization on whose behalf the person making the request is soliciting; and

- (4) Disclose, orally and in writing, the fact that a copy of the professional solicitor's registration data and financial reports are available from the department of the attorney general.

(b) A professional solicitor who makes an oral solicitation by telephone, door-to-door, or otherwise, prior to collecting or attempting to collect any contribution, shall provide a written confirmation of the expected contribution and clearly disclose that the contribution is not tax-deductible, if applicable, or, if the professional solicitor maintains that the contribution is tax-deductible in whole or in part, the portion of the contribution that the professional solicitor maintains is tax-deductible. The written confirmation shall also conspicuously disclose the name and current address of the registered professional solicitor."

SECTION 3. Section 467B-2.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every public benefit corporation domiciled in Hawaii and every charitable organization not exempted by section 467B-11.5 shall register with the department prior to conducting any solicitation of contributions or prior to having any solicitation of contributions conducted on its behalf by others. Two authorized officers of the charitable organization shall sign the registration form and shall certify that the statements therein are true and correct to the best of their knowledge subject to penalties imposed by section 710-1063. A central or parent organization that has received a group exemption letter from the Internal Revenue Service may submit a consolidated application for registration [may, at the option of the charitable organization, be submitted by a parent organization] for itself and any or all of [its related foundations, supporting organizations, chapters, branches, or affiliates in this State.] the subordinate organizations covered under the group exemption that are included in the central or parent organization's annual information return to the Internal Revenue Service."

SECTION 4. Section 467B-2.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Within ninety days after a solicitation campaign or event has been completed and on the anniversary of the commencement of a solicitation campaign lasting more than one year, a professional solicitor shall file with the attorney general a financial report for the campaign, including gross revenue and an itemization of all expenses incurred on a form prescribed by the attorney general. The attorney general may require the financial report to be submitted electronically. This report shall be signed under penalty provided by section 710-1063 by the authorized contracting agent for the professional solicitor [and two authorized officials of the charitable organization] and shall report gross revenue from Hawaii donors and national gross revenue from a solicitation activity or campaign. If a financial report required under this section is not filed in a timely manner, an initial late filing fee of \$100 shall be imposed, and an additional late filing fee of \$20 per day shall be imposed, for each day during which the violation continues; provided that the total fee amount imposed under this subsection shall not exceed \$1,000. The attorney general may waive all or part of the late filing fee imposed by this subsection if there is a reasonable cause for the failure to timely file. The professional solicitor shall provide a copy of the financial report to the charitable organization to which the financial report pertains within ten days of its submission of the report to the attorney general. A professional solicitor shall maintain during each solicitation campaign and for not less than

three years after the completion of that campaign the following records, which shall be available for inspection upon demand by the attorney general:

- (1) The date and amount of each contribution received and the name and address of each contributor;
- (2) The name and residence of each employee, agent, or other person involved in the solicitation;
- (3) Records of all revenue received and expenses incurred in the course of the solicitation campaign; and
- (4) The location and account number of each bank or other financial institution account in which the professional solicitor has deposited revenue from the solicitation campaign."

SECTION 5. Section 467B-5.5, Hawaii Revised Statutes, is amended to read as follows:

**"§467B-5.5 Commercial co-venturer's charitable sales promotions. (a)**

All charitable sales promotions by a commercial co-venturer shall disclose the name of the commercial co-venturer.

(b) Prior to the commencement of any charitable sales promotion in this State conducted by a commercial co-venturer using the name of a charitable organization, the commercial co-venturer shall obtain the written consent of the charitable organization whose name will be used during the charitable sales promotion. The commercial co-venturer shall file a copy of the written consent with the department not less than ten days prior to the commencement of the charitable sales promotion within this State. An authorized representative of the charitable organization and the commercial co-venturer shall sign the written consent, and the terms of the written consent shall include the following:

- (1) The goods or services to be offered to the public;
- (2) The geographic area where, and the starting and final date when, the offering is to be made;
- (3) The manner in which the name of the charitable organization is to be used, including any representation to be made to the public as to the amount or per cent per unit of goods or services purchased or used that is to benefit the charitable organization;
- (4) A provision for a final accounting on a per unit basis to be given by the commercial co-venturer to the charitable organization and the date when it is to be made[;], which date shall be no more than ninety days after the end of the charitable sales promotion; and
- (5) The date when and the manner in which the benefit is to be conferred on the charitable organization.

(c) A final accounting for each charitable sales promotion shall be prepared by the commercial co-venturer following the completion of the promotion. A copy of the final accounting shall be provided to the attorney general not more than twenty days after the copy is requested by the attorney general. ~~[A copy of the final accounting shall be provided to the charitable organization not more than twenty days after the copy is requested by the charitable organization.]~~ The final accounting shall be kept by the commercial co-venturer for a period of three years, unless the commercial co-venturer and the charitable organization mutually agree that the accounting should be kept by the charitable organization instead of the commercial co-venturer.

(d) A ~~[fine]~~ late filing fee of \$20 shall be imposed on a commercial co-venturer who fails to file a written consent as required by subsection (b), unless it is shown that the failure is due to reasonable cause, for each day during

which the violation continues; provided that the total amount imposed under this subsection shall not exceed \$1,000.

(e) The written consent required under subsection (b) shall be signed by the authorized representative of the commercial co-venturer and the charitable organization certifying that the statements made therein are true and correct to the best of their knowledge subject to penalties imposed by section 710-1063. The attorney general may require the written consent to be submitted electronically and may require the use of electronic signatures.

(f) The attorney general may issue a cease and desist order whenever the attorney general finds that a commercial co-venturer has engaged in an act or practice that violates this chapter.

(g) When the attorney general finds that a commercial co-venturer has violated or is operating in violation of this chapter, the attorney general may impose an administrative fine not to exceed \$1,000 for each act that constitutes a violation of this chapter and an additional penalty, not to exceed \$100 per day, for each day during which the violation continues. Any person aggrieved by an action of the attorney general under this section may request a hearing to review that action in accordance with chapter 91 and rules adopted by the attorney general. Any request for hearing shall be made within ten days after the attorney general has served the person with notice of the action, which notice shall be deemed effective upon mailing."

SECTION 6. Section 467B-6.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) Every registered charitable organization [required to register pursuant to section 467B-2.1] shall annually file with the department a report for its most recently completed fiscal year. If the charitable organization files a Form 990 or 990-EZ with the Internal Revenue Service, the annual report shall be a copy of that Form 990 or 990-EZ. If the registered charitable organization is required to file a Form 990-T with the Internal Revenue Service, the annual report shall include a copy of that Form 990-T. If a charitable organization is not required to file a Form 990 or 990-EZ with the Internal Revenue Service, the annual report shall contain all information prescribed by the department. [The charitable organization shall file its annual report not later than the fifteenth day of the fifth month following the close of its fiscal year.] The annual report for a charitable organization that files a Form 990 or 990-EZ shall be electronically submitted to the department within ten business days of the date that the organization files the form with the Internal Revenue Service. The annual report for a charitable organization that files a Form 990-N or that is not required to file a Form 990 or 990-EZ shall be electronically submitted to the department no later than the fifteenth day of the fifth month following the close of its fiscal year. An authorized officer or agent of the charitable organization shall sign the annual report and shall certify that the statements therein are true and correct to the best of the officer's or agent's knowledge subject to penalties imposed by section 710-1063. A charitable organization that has obtained an extension of time to file a Form 990 or 990-EZ from the Internal Revenue Service [may obtain an extension of time to file the annual report with the department, by filing with the department a copy of the Internal Revenue Service's approved extension of time to file.] shall provide a copy to the attorney general within twenty days after the copy is requested by the attorney general. The annual report shall be accompanied by a filing fee as prescribed by subsection (d). The department shall accept, under conditions prescribed by the attorney general, a copy or duplicate original of financial statements, reports, or returns filed by the charitable organization

with the Internal Revenue Service or another state having requirements similar to the provisions of this section; provided that the attorney general may prescribe the form of the annual financial report for charitable organizations that file the Form 990-N with the Internal Revenue Service, or who are not required to file a Form 990 or 990-EZ with the Internal Revenue Service.

(b) A charitable organization with ~~[gross revenue]~~ contributions in excess of \$500,000 in the year covered by the annual financial report and a charitable organization required to obtain an audit report by a governmental authority or a third party shall include with its annual financial report, an audit report, prepared in accordance with generally accepted accounting principles, by a certified public accountant; ~~provided that any charitable organization shall include with its annual financial report an audit report, prepared in accordance with generally accepted accounting principles, by a certified public accountant if required to do so by a governmental authority or a third party.~~ For the purpose of this subsection, "gross revenue" does not include grants or fees from government agencies or revenue derived from funds held in trust for the benefit of the organization]."

2. By amending subsections (d) and (e) to read:

"(d) Each charitable organization filing a report required by this section shall pay a filing fee to the department based on the total amount of its gross revenues during the time covered by the report at the close of the calendar or fiscal year adopted by the charitable organization as follows:

- (1) ~~[\$10,]~~ \$0, if less than \$25,000;
- (2) \$25, if \$25,000 but less than \$50,000;
- (3) \$50, if \$50,000 but less than \$100,000;
- (4) \$100, if \$100,000 but less than \$250,000;
- (5) \$150, if \$250,000 but less than \$500,000;
- (6) \$200, if \$500,000 but less than \$1,000,000;
- (7) \$250, if \$1,000,000 but less than \$2,000,000;
- (8) \$350, if \$2,000,000 but less than \$5,000,000; or
- (9) \$600, if \$5,000,000 or more.

(e) If a return, report, or filing fee required under this section is not filed or paid, taking into account any extension of time for filing, unless it is shown that the failure is due to reasonable cause, a ~~[fine]~~ late filing fee of \$20 shall be imposed for each day during which the violation continues; provided that the total amount imposed under this subsection shall not exceed \$1,000."

SECTION 7. Section 467B-11.5, Hawaii Revised Statutes, is amended to read as follows:

**"§467B-11.5 Charitable organizations exempted from registration and financial disclosure requirements.** The following charitable organizations shall not be subject to sections 467B-2.1 and 467B-6.5, if the organization submits ~~[information as the department may require to substantiate an exemption under this section:] an application for an exemption to the department and the department approves the organization's application:~~

- (1) Any duly organized religious corporation, institution, or society that is exempt from filing Form 990 with the Internal Revenue Service pursuant to sections 6033(a)(3)(A)(i) and (iii) and 6033(a)(3)(C)(i) of the Internal Revenue Code, as amended;
- (2) Parent-teacher associations;
- (3) Any educational institution that is licensed or accredited by any of the following licensing or accrediting organizations:
  - (A) Hawaii Association of Independent Schools;

- (B) Hawaii Council of Private Schools;
- (C) Western Association of Schools and Colleges;
- (D) Middle States Association of Colleges and Schools;
- (E) New England Association of Schools and Colleges;
- (F) North Central Association of Colleges and Schools;
- (G) Northwest Commission on Colleges and Universities;
- (H) Southern Association of Colleges and Schools; ~~[or]~~
- (I) The National Association for the Education of Young Children; or
- (J) The Northwest Accreditation Commission for Primary and Secondary Schools;

and any organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code expressly authorized by, and having an established identity with~~[-such]~~ an educational institution~~[-]~~ accredited by one of the foregoing accrediting agencies; provided that the organization's solicitation of contributions is primarily directed to the students, alumni, faculty, and trustees of the institutions and their respective families;

- (4) Any nonprofit hospital licensed by the State or any similar provision of the laws of any other state;
- (5) Any corporation established by an act of the United States Congress that is required by federal law to submit to Congress annual reports, fully audited by the United States Department of Defense, of its activities including itemized accounts of all receipts and expenditures;
- (6) Any agency of this State, another state, or the federal government; and
- (7) Any charitable organization that normally receives less than \$25,000 in contributions annually, if the organization does not employ or compensate a professional solicitor or professional fundraising counsel. For purposes of this paragraph, an organization normally receives less than \$25,000 in contributions annually if, during the immediately preceding three fiscal years, it received, on average, less than \$25,000 in contributions.

The attorney general may require the application for exemption to be filed electronically with the department and may require the use of electronic signatures."

SECTION 8. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved June 29, 2016.)

## ACT 164

S.B. NO. 2439

A Bill for an Act Relating to Law Enforcement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 710-1010, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) This section does not apply to:

- (a) The obstruction, impairment, or hindrance of the making of an arrest; ~~or~~
- (b) The obstruction, impairment, or hindrance of any governmental function, as provided by law, in connection with a labor dispute with the government~~[-]; or~~
- (c) A person who is making a video or audio recording or taking a photograph of a law enforcement officer while the officer is in the performance of the officer's duties in a public place or under circumstances in which the officer has no reasonable expectation of privacy; provided that the officer may take reasonable action to maintain safety and control, secure crime scenes and accident sites, protect the integrity and confidentiality of investigations, and protect the public safety and order.”

SECTION 2. Section 711-1111, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of violation of privacy in the second degree if, except in the execution of a public duty or as authorized by law, the person intentionally:

- (a) Trespasses on property for the purpose of subjecting anyone to eavesdropping or other surveillance in a private place;
- (b) Peers or peeps into a window or other opening of a dwelling or other structure adapted for sojourn or overnight accommodations for the purpose of spying on the occupant thereof or invading the privacy of another person with a lewd or unlawful purpose, under circumstances in which a reasonable person in the dwelling or other structure would not expect to be observed;
- (c) Trespasses on property for the sexual gratification of the actor;
- (d) Installs or uses, or both, in any private place, without consent of the person or persons entitled to privacy therein, any means or device for observing, recording, amplifying, or broadcasting sounds or events in that place other than another person in a stage of undress or sexual activity; provided that this paragraph shall not prohibit a person from making a video or audio recording or taking a photograph of a law enforcement officer while the officer is in the performance of the officer's duties in a public place or under circumstances in which the officer has no reasonable expectation of privacy and the person is not interfering with the officer's ability to maintain safety and control, secure crime scenes and accident sites, protect the integrity and confidentiality of investigations, and protect the public safety and order;
- (e) Installs or uses outside a private place any device for hearing, re-



coding, amplifying, or broadcasting sounds originating in that place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy therein;

- (f) Covertly records or broadcasts an image of another person's intimate area underneath clothing, by use of any device, and that image is taken while that person is in a public place and without that person's consent;
- (g) Intercepts, without the consent of the sender or receiver, a message or photographic image by telephone, telegraph, letter, electronic transmission, or other means of communicating privately; but this paragraph does not apply to:
  - (i) Overhearing of messages through a regularly installed instrument on a telephone party line or an extension; or
  - (ii) Interception by the telephone company, electronic mail account provider, or telephone or electronic mail subscriber incident to enforcement of regulations limiting use of the facilities or incident to other operation and use;
- (h) Divulges, without the consent of the sender or the receiver, the existence or contents of any message or photographic image by telephone, telegraph, letter, electronic transmission, or other means of communicating privately, if the accused knows that the message or photographic image was unlawfully intercepted or if the accused learned of the message or photographic image in the course of employment with an agency engaged in transmitting it; or
- (i) Knowingly possesses materials created under circumstances prohibited in section 711-1110.9."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

**ACT 165**

S.B. NO. 2512

A Bill for an Act Relating to Animals.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that thousands of animals, primarily dogs and cats, are deserted or abandoned across Hawaii every year, contributing to increased animal control costs, animal suffering and overpopulation, and euthanasia rates at local animal shelters. Abandoned animals are often subject to illness, injury, starvation, disease, attacks by other animals, and even human cruelty. Abandoned animals may also harm native wildlife. Weak penalties associated with Hawaii's current animal desertion statute have failed to adequately deter animal abandonment. Stronger penalties would encourage pet owners to work with local shelters and animal control contractors when a pet must be re-homed, strengthen pet retention and the human-animal bond, and protect pet owners and the animals themselves.

The purpose of this Act is to increase penalties for pet animal and equine animal desertion.

SECTION 2. Chapter 711, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§711- Pet animal or equine animal desertion.** (a) It shall be unlawful for the owner or any person in possession of any pet animal or equine animal to desert the pet animal or equine animal.

(b) Any person who violates subsection (a) shall be guilty of a petty misdemeanor and subject to a fine not exceeding \$1,000 in addition to any other penalties.

(c) Any person who violates subsection (a) and recklessly causes the death of or substantial bodily injury to the pet animal or equine animal shall be guilty of a misdemeanor and subject to a fine not exceeding \$2,000 in addition to any other penalties.

(d) Each pet animal or equine animal that is deserted in violation of subsection (a) or suffers death or substantial bodily injury as a result of a violation of subsection (a) shall constitute a separate offense.

(e) For the purposes of this section, “desert” means to leave without the intent to return.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 29, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 166

S.B. NO. 2551

A Bill for an Act Relating to Non-General Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the judiciary should report to the legislature on all non-general funds managed by the judiciary, including administratively established accounts and funds. The legislature finds it is necessary to be informed of the total fiscal situation of the State to make sound budgetary decisions. However, the auditor’s report no. 15-16, “Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Judiciary”, reported that “[a]ccording to [j]udiciary personnel, sections 37-47(9), (10), and (11), Hawaii Revised Statutes, do not apply to its special funds.” As a result, the auditor found that several trust funds and accounts of the judiciary were not reported to the legislature.

The purpose of this Act is to impose the same non-general fund reporting requirements on the judiciary as that established for executive branch departments.

SECTION 2. Chapter 601, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§601- Reporting of non-general fund information.** No later than twenty days prior to the convening of each regular session, the judiciary shall submit to the legislature a report for each non-general fund account, which shall include but not be limited to the following:

- (1) The name of the fund and a cite to the law authorizing the fund;
- (2) The intended purpose of the fund;
- (3) The current program activities which the fund supports;
- (4) The balance of the fund at the beginning of the current fiscal year;
- (5) The total amount of expenditures and other outlays from the fund account for the previous fiscal year;
- (6) The total amount of revenue deposited to the account for the previous fiscal year;
- (7) A detailed listing of all transfers from the fund;
- (8) The amount of moneys encumbered in the account as of the beginning of the fiscal year;
- (9) The amount of funds in the account which are required for the purposes of bond conveyance or other related bond obligations;
- (10) The amount of moneys in the account derived from bond proceeds; and
- (11) The amount of moneys of the fund held in certificates of deposit, escrow accounts, or other investments.”

SECTION 3. Section 37-52.5, Hawaii Revised Statutes, is amended to read as follows:

**“§37-52.5 Criteria for the establishment and continuance of administratively established accounts and funds.** (a) ~~[Except for the]~~ The judiciary~~], and~~ any department or agency that administratively establishes any new account or fund, within thirty working days of its establishment, shall transmit a report to the legislature. The report to the legislature shall include:

- (1) The justification for the establishment of the account or fund; and
- (2) The sources of revenue for the fund.

(b) ~~[Except for the]~~ The judiciary~~], and~~ each department or agency, at least twenty days prior to the convening of each regular session, shall submit a report to the legislature. The report shall include:

- (1) A list of all administratively established accounts or funds; and
- (2) All revenues, expenditures, encumbrances, and ending balances of each account or fund.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 167

H.B. NO. 1055

A Bill for an Act Related to Elections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 303 of the Help America Vote Act of 2002 requires applicants for voter registration for federal office elections to provide a driver's license number, if one has been issued, or if none has been issued, the last four digits of the applicant's social security number. Section 303 also includes a special rule for applicants without a driver's license or social security number, which requires the State to assign the applicant a number that will serve to identify the applicant for voter registration purposes.

The legislature finds that Hawaii should conform state election law for voter registration to the same requirements of the federal office election law because the voting registration law in Hawaii does not distinguish between voter registration for state and federal offices.

The purpose of this Act is to require the applicant's Hawaii driver's license number or Hawaii state identification card number for purposes of identifying an applicant for voter registration or, if no license or identification card has been issued, the last four digits of the applicant's social security number; provided that if the applicant does not have a social security number, the State shall issue the applicant a unique identification number, which will serve to identify the applicant for voter registration purposes.

SECTION 2. Section 11-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person qualified to and desiring to register as a voter in any county shall make and subscribe to an application in the form of an affidavit.

The affidavit shall contain the following information:

- (1) Name;
- (2) ~~[Social security number;]~~ The applicant's Hawaii driver's license number or Hawaii state identification card number; provided that:
  - (A) If no driver's license or identification card has been issued to the applicant, the last four digits of the applicant's social security number; and
  - (B) If no social security number has been issued to the applicant, an election official or county clerk shall assign the applicant a unique identification number for voter registration purposes and enroll the applicant in the State's computerized voter registration list, if any;
- (3) Date of birth;
- (4) Residence, including mailing address;
- (5) That the residence stated in the affidavit is not simply because of the person's presence in the State, but that the residence was acquired with the intent to make Hawaii the person's legal residence with all the accompanying obligations therein; and
- (6) That the person is a citizen.

An application to register to vote shall include a space to request a permanent absentee ballot.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2018.

(Approved June 29, 2016.)

A Bill for an Act Relating to Absentee Ballots.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 15-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Electronic transmission” means the transmission of a blank or voted ballot by facsimile, electronic mail delivery, or the utilization of an online absentee ballot delivery and return system that may include the ability to mark the ballot.”

SECTION 2. Section 15-4, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) When a registered voter requests an absentee ballot, the voter also may include an additional request to receive absentee ballots permanently. After receiving a request for permanent absentee voter status, the clerk shall mail to the voter who requested permanent absentee voter status an absentee ballot for all subsequent elections conducted in that precinct. The forwarding address for absentee ballots to be permanently mailed shall be the in-state mailing address contained in the voter’s registration record. ~~[Voters who seek to have ballots forwarded to another address shall apply for an absentee ballot under subsection (a).]~~ Subject to the conditions of subsection (a), a permanent absentee voter may also request from the clerk that the voter’s ballot be forwarded temporarily to an address other than the permanent absentee mailing address originally requested, either in or outside of the State, for a single election or for a primary or special primary election and the election immediately following the primary or special primary election. A permanent absentee voter’s request for a ballot to be forwarded temporarily shall not serve as a cancellation of the voter’s permanent absentee status or as a change to the voter’s permanent absentee mailing address. Upon the completion of the election or elections covered by the permanent absentee voter’s temporary request under this subsection, the clerk shall resume mailing the voter’s ballots to the permanent absentee mailing address originally requested under subsection (a).”

SECTION 3. Section 15-4, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) ~~[A]~~ Except as provided in subsection (c), a voter’s permanent absentee voter status shall be terminated if any of the following conditions apply:

- (1) The voter requests in writing that such status be terminated;
- (2) The voter dies, loses voting rights, registers to vote in another jurisdiction, or is otherwise disqualified from voting;
- (3) The voter’s absentee ballot, voter notification postcard, or any other election mail is returned to the clerk as undeliverable for any reason; or
- (4) The voter does not return a voter ballot by 6:00 p.m. on election day in both the primary and general election of an election year.”

SECTION 4. Section 15-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If ~~[mailed]~~ absentee ballots requested under section 15-4 are not received by ~~[the]~~ a voter within five days of an election, if a voter requires a replacement ballot within five days of an election, or if a voter would otherwise not be able to return a properly issued ballot by the close of polls, then a [eov-

ered] voter ~~[under chapter 15D]~~ may request that absentee ballots be forwarded by ~~[faecsimile.]~~ electronic transmission. Upon receipt of such a request and confirmation that proper application was made, the clerk may transmit appropriate ballots ~~[by faecsimile]~~, together with a form requiring the affirmations and information required by section 15-6, and a form containing a waiver of the right to secrecy, as provided by section 11-137. The voter may return the voted ballots and executed forms by ~~[faecsimile]~~ electronic transmission or mail; provided that they are received by the issuing clerk no later than the close of polls on election day. Upon receipt, the clerk shall verify compliance with the requirements of section 15-9(c)[;] and prepare the ballots for counting pursuant to section 15-10[-]; provided that if the voter returns multiple voted absentee ballots for the same election, the clerk shall, for purposes of counting ballots, prepare only the first absentee ballot returned that is not spoiled."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 29, 2016.)

## ACT 169

S.B. NO. 2645

A Bill for an Act Relating to Water Audits.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Article XI, section 7, of the Hawaii State Constitution obligates the State to protect, control, and regulate the use of Hawaii's water resources for the benefit of its people.

Fresh water is the lifeblood of society. The quantity and quality of fresh water directly impact the health, welfare, economy, and quality of life in Hawaii. Fresh water infrastructure has been constructed to withdraw water from available sources, to treat it to acceptable standards, and to distribute it to our various communities.

Based on the department of health's database, there are a little over fifty county-run public water systems statewide and another fifty large capacity public water systems and public water systems operating in designated ground water management areas. Many of these water distribution systems, however, may be operating with inefficiencies that result in the loss of water, increased energy costs, and lost revenue.

Water conservation is among the least expensive and most efficient ways to increase the available supply of fresh water. It requires improving the efficiency of water delivery and identifying losses to the system. A water audit helps a utility understand how much water is lost from a distribution system through the detailed analysis of data, which the utility can use to make informed decisions to reduce real or apparent losses.

There is a growing trend across the United States where states, including California, Colorado, Delaware, Georgia, New Mexico, Pennsylvania, Tennessee, Texas, Washington, and Wisconsin, and their water authorities have begun to mandate water audits by water utilities.

The purpose of this Act is to establish a program to implement standardized water audits of public water systems in accordance with the method adopt-

ed by the American Water Works Association's Water Audits and Loss Control Programs, Manual of Water Supply Practices - M36, as amended.

SECTION 2. The commission on water resource management shall establish a five-year program to provide technical assistance to public water systems to conduct standardized water audits of public water systems in accordance with the method adopted by the American Water Works Association's Water Audits and Loss Control Programs, Manual of Water Supply Practices - M36, as amended.

In the first two years, the commission shall establish a program for the counties to conduct standardized water audits of public water systems operated by the counties. In the following two years, the commission shall extend the program to all remaining large capacity public water systems and public water systems in designated water management areas.

In establishing the program, the commission shall utilize the American Water Works Association's Free Water Audit Software, Version 5.0 or subsequent versions. The program elements shall include water audit training workshops, level 1 validation of water audits and follow-up communication, and recommendations to improve water audit validity scores and to address system losses.

SECTION 3. The standardized water audits shall follow the key parameters for establishing a water audit outlined in the American Water Works Association's Water Audits and Loss Control Programs, Manual of Water Supply Practices - M36, as amended, including:

- (1) Describing the distribution system boundaries to identify all water sources supplying water to the system, calculate the system input volume, and calculate the volume of water supplied into the distribution system;
- (2) Setting time periods for the audit that are sufficient to allow analysis and evaluation of the system water supply;
- (3) Establishing standardized units of measure so supply and consumption units are the same;
- (4) Assembling records and data from a wide variety of operations in the water systems, including:
  - (A) Water supplied, including volume from own sources, and water imported or exported;
  - (B) Authorized water consumption, including billed metered, billed unmetered, and unbilled metered;
  - (C) Water system data, including length of mains, number of service connections, average length of customer service lines, and average operating pressure; and
  - (D) Cost data, including total annual cost of operating the water system, customer retail unit cost, and variable production costs; and
- (5) Identifying, quantifying, and assigning costs to apparent losses and real losses.

SECTION 4. On January 1, 2017, the commission shall implement the water audit program developed pursuant to sections 1 and 2 of this Act, and shall include a process for level 1 validation of water loss audit reports which follows the principles and terminology in the American Water Works Association's Water Audits and Loss Control Programs, Manual of Water Supply Practices

- M36, as amended, including the Free Water Audit Software, version 5.0 or subsequent versions.

The commission shall provide the counties and other operators of public water systems subject to this Act the technical assistance and information necessary to help prepare and validate the water loss audit reports.

**SECTION 5.** Beginning in 2018, and for each subsequent year thereafter, the counties shall submit, on July 1 of each year, a completed and validated water loss audit report for each public water system operated by the counties for the previous calendar year to the commission. Beginning on July 1, 2020, and for each subsequent year thereafter, all remaining large capacity public water systems and public water systems in water management areas shall submit, on July 1 of each year, a completed and validated water loss audit report on their water systems for the previous calendar year to the commission. Each water loss audit report submitted to the commission shall be accompanied by information identifying steps taken in the preceding year to increase the validity of data entered into the final audit, reduce the volume of apparent losses, and reduce the volume of real losses.

**SECTION 6.** As used in this Act:

“Commission” means the commission on water resource management.

“Designated water management area” means a geographic area that has been designated pursuant to section 174C-41, Hawaii Revised Statutes.

“Large capacity public water system” means a public water system that serves a population of one thousand or more.

“Level 1 validation” means a water audit that has been subject to a third-party desktop review of data that is immediately available, which may include supply reports, consumption reports, and testing reports. “Level 1 validation” includes utility staff interviews with third-party validators focused on outlining organizational practices to ensure that data validity scores have been assigned correctly and consistently, and confirmed, corrected, or noted as needing further investigation.

“Public water system” means a system subject to Federal Safe Drinking Water Act regulations, which provides water for human consumption through pipes or other constructed conveyances. Such a system includes any collection, treatment, storage, and distribution facilities under the control of a utility and used primarily in connection with the system.

**SECTION 7.** There is authorized out of other federal funds the sum of \$600,000 or so much thereof as may be necessary for fiscal year 2016-2017 to conduct standardized water audits of public water systems as set forth in this Act; provided that private matching funds of \$100,000 are provided.

There is appropriated out of the revenues authorized by this section the sum of \$700,000 or so much thereof as may be necessary for fiscal year 2016-2017 to establish and implement the program to conduct standardized water audits of public water systems in accordance with this Act.

The sum appropriated shall be expended by the commission on water resource management for the purposes of this Act.

**SECTION 8.** This Act shall take effect on July 1, 2016.

(Approved June 30, 2016.)



A Bill for an Act Relating to Water Management.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 174C-31, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) The Hawaii water plan shall be directed toward the achievement of the following objectives:

- (1) The attainment of maximum reasonable-beneficial use of water for such purposes as those referred to in subsection (a);
- (2) The proper conservation and development of the waters of the State;
- (3) The control of the waters of the State for such public purposes as navigation, drainage, sanitation, and flood control;
- (4) The attainment of adequate water quality as expressed in the water resource protection and water quality plans; ~~and~~
- (5) The implementation of the water resources policies expressed in section 174C-2[-]; and
- (6) The utilization of reclaimed water for uses other than drinking and for potable water needs in one hundred per cent of state and county facilities by December 31, 2045.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 30, 2016.)

A Bill for an Act Relating to Water Infrastructure Loans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 155, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART II. WATER INFRASTRUCTURE LOANS**

**§155-A Definitions.** As used in this part:

“Department” means the department of agriculture.

“Water infrastructure charge” means the on-bill charges for the use and services of the loan program, including the repayment of loans made under the loan program to be imposed on water utility customers.

“Water infrastructure equipment” means infrastructure improvements, equipment, and personal property to be installed for dams, reservoirs, hydroelectric pumping, storm water reclamation, ditch maintenance, spillways, wells, water ducts, and water distribution systems.

“Water infrastructure loans” and “loan program” means the program established by this part and loans made to finance the purchase or installation of water infrastructure equipment for dams, reservoirs, hydroelectric pumping,

storm water reclamation, ditch maintenance, spillways, wells, water ducts, and water distribution systems.

"Water infrastructure special fund" means the special fund created pursuant to section 155-D.

**§155-B Hawaii water infrastructure loan program.** There is established a Hawaii water infrastructure loan program, which shall be a loan program as defined under section 39-51. The program shall be administered by the department in a manner consistent with chapter 39, part III. This loan program may include:

- (1) Loans made, on terms approved by the department, to private entities, whether corporations, partnerships, limited liability companies, or other persons, which entities may lease or provide water infrastructure equipment to utility customers; and
- (2) Direct loans to utility customers, on terms approved by the department.

**§155-C Powers of the department.** The department shall have the following powers:

- (1) Make loans and expend funds to finance the purchase or installation of water infrastructure equipment for dams, reservoirs, hydroelectric pumping, storm water reclamation, ditch maintenance, spillways, wells, water ducts, and water distribution systems;
- (2) Hold and invest moneys in the water infrastructure special fund in investments as permitted by law;
- (3) Hire employees necessary to perform its duties;
- (4) Enter into contracts for the service of consultants for rendering professional and technical assistance and advice, and any other contracts that are necessary and proper for the implementation of the loan program;
- (5) Enter into contracts for the administration of the loan program, in accordance with chapter 103D;
- (6) Establish loan program guidelines to carry out the purposes of this part;
- (7) Perform all functions necessary to effectuate the purposes of this part;
- (8) Delegate authority to the chairperson of the board of agriculture to approve loans where the requested amount plus any principal balance on existing loans to the applicant does not exceed \$25,000 of state funds; and
- (9) Adopt rules pursuant to chapter 91 necessary for the purpose of this part.

**§155-D Hawaii water infrastructure special fund.** (a) There is established the Hawaii water infrastructure special fund into which shall be deposited:

- (1) Water infrastructure charges received for the use and services of the loan program, including the repayment of loans made under the loan program;
- (2) All other funds received by the department and legally available for the purposes of the water infrastructure special fund;
- (3) Interest earnings on all amounts in the water infrastructure special fund; and
- (4) Any other moneys permitted by the board of agriculture.

(b) Moneys in the water infrastructure special fund may be used for the purposes of:

- (1) Making water infrastructure loans;
- (2) Paying administrative costs of the loan program; or
- (3) Paying any other costs related to the loan program.”

SECTION 2. Chapter 155, Hawaii Revised Statutes, is amended by amending the title of the chapter to read as follows:

**“AGRICULTURAL [LOAN]’ AND WATER INFRASTRUCTURE LOANS”**

SECTION 3. Chapter 155, Hawaii Revised Statutes, is amended by designating sections 155-1 to 155-14 as part I and inserting a title before section 155-1 to read as follows:

**“PART I. AGRICULTURAL LOAN PROGRAM”**

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$800,000 or so much thereof as may be necessary for fiscal year 2016-2017 for deposit into the Hawaii water infrastructure special fund.

There is appropriated out of the Hawaii water infrastructure special fund the sum of \$800,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the purposes of the fund.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 5. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2016.

(Approved June 30, 2016.)

**Note**

1. Prior to amendment “loans” appeared here.

**ACT 172**

**H.B. NO. 2040**

**A Bill for an Act Relating to Water Security.**

***Be It Enacted by the Legislature of the State of Hawaii:***

**PART I**

SECTION 1. The 2016 Hawaii-hosted World Conservation Congress presents an opportunity for Hawaii to demonstrate international leadership in investing in natural capital that supports economic growth and protects the quality of life. The challenge of managing the State’s limited natural resources such as watersheds, marine habitat, and fresh water supply while fostering community resilience is too large a task for a single actor or sector to address alone. New and innovative partnerships are needed to catalyze large-scale investment in Hawaii’s sustainable development. The Aloha+ Natural Capital Investment Partnership is a joint public-private conservation commitment that will dem-

onstrate Hawaii's commitment to natural resources management with a special focus on climate resilience at the World Conservation Congress and beyond.

To provide reliable long-term funding needed to meet the State's Aloha+ Challenge conservation targets by 2030, partners from multiple sectors, including county, state, and federal governments as well as private philanthropic and corporate entities, must work together to leverage funds and provide matching opportunities.

The purpose of this Act is to establish a two-year pilot program for a water security advisory group to enable public-private partnerships that increase water security by providing matching state funds for projects and programs that:

- (1) Increase the recharge of groundwater resources;
- (2) Encourage the reuse of water and reduce the use of potable water for landscaping irrigation; and
- (3) Improve the efficiency of potable and agricultural water use.

## PART II

SECTION 2. The department of land and natural resources shall establish a two-year pilot program for a water security advisory group to enable public-private partnerships that increase water security by providing matching state funds for projects and programs that:

- (1) Increase the recharge of groundwater resources;
- (2) Encourage the reuse of water and reduce the use of potable water for landscaping irrigation; and
- (3) Improve the efficiency of potable and agricultural water use.

SECTION 3. The department of land and natural resources may establish an account or fund pursuant to section 37-52.5, Hawaii Revised Statutes, into which shall be deposited:

- (1) All moneys appropriated by the legislature;
- (2) Gifts, grants, and other private funds; and
- (3) Federal funds.

The moneys in the fund shall be used to fund priority projects and programs to increase water security recommended by the water security advisory group, provided that state funds are matched on a one-for-one matching basis by the public or private agency or organization that submitted the relevant proposal for a project or program to increase water security.

SECTION 4. The department of land and natural resources may contract with an independent non-profit entity to carry out the duties and activities associated with this Act.

SECTION 5. The department of land and natural resources shall establish a water security advisory group, not subject to section 26-34, Hawaii Revised Statutes, which shall consist of:

- (1) The manager and chief engineer of the board of water supply of each county or each manager and chief engineer's designee;
- (2) The deputy director for water resource management of the department of land and natural resources;
- (3) A member with knowledge of agricultural water storage and delivery systems selected by the chairperson of the board of land and natural resources;

- (4) A member from a private landowning entity that actively partners with a watershed partnership selected by the chairperson of the board of land and natural resources;
- (5) A member with knowledge, experience, and expertise in the area of Hawaiian cultural practices selected by the chairperson of the board of land and natural resources; and
- (6) A member representing a conservation organization selected by the chairperson of the board of land and natural resources.

The water security advisory group shall elect a chairperson from among its members. Any action of the advisory group shall be by a simple majority of its members. Five members shall constitute a quorum.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$750,000 or so much thereof as may be necessary for fiscal year 2016–2017 to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of land and natural resources.

### PART III

SECTION 7. (a) The water security advisory group shall advise the department of land and natural resources on the priority of all proposals for projects or programs submitted by public or private agencies or organizations to increase water security in the State and recommend high-priority programs for the award of matching funds through the pilot program established pursuant to this Act.

The water security advisory group shall:

- (1) Establish criteria for the evaluation of proposals and assignment of priority to proposals;
  - (2) Evaluate proposals based on the established criteria;
  - (3) Assign priorities to each proposal submitted; and
  - (4) Advise the department on its evaluation of and assignment of priority to each proposal submitted.
- (b) In advising the department on the priorities for matching fund grants for projects and programs to increase water security, the water security advisory group shall consider projects and programs that:
- (1) Establish new areas or increase existing areas for the recharge of groundwater resources;
  - (2) Reduce the use of potable water for landscape irrigation and encourage the reuse of water; and
  - (3) Improve the efficiency of potable domestic water or agricultural irrigation use.
- (c) All projects and programs recommended for approval by the advisory group shall be required to track and report on the amount of water conserved, recharged, or reused by the projects and programs.

SECTION 8. The department of land and natural resources shall submit an annual report on the pilot program established pursuant to this Act to the governor and the legislature at least twenty days prior to the convening of the 2017 and 2018 regular legislative sessions. The annual reports shall include:

- (1) A summary of all the projects and programs approved to increase water security by improving recharge of groundwater, reducing the use of potable water for irrigation, or encouraging reuse of water;

- (2) Proposals for future projects and programs;
- (3) A financial report for the preceding fiscal year; and
- (4) Objectives and budget projections for the following fiscal year.

SECTION 9. Members of the water security advisory group shall serve without compensation. All necessary expenses of each member, including travel expenses, shall be paid by the agency, organization, or department which the member represents. No member shall be made subject to chapter 84, Hawaii Revised Statutes, solely because of that member's participation as a member of the advisory group.

SECTION 10. The last contract for a project or program recommended for approval by the water security advisory group shall be executed before June 30, 2018.

#### PART IV

SECTION 11. Upon the repeal of this Act as provided in section 12:

- (1) All contracts, agreements, permits, or other documents executed or entered into by the department of land and natural resources pursuant to this Act shall remain in full force and effect until terminated pursuant to the terms of the relevant contract, agreement, permit, or document; and
- (2) All unexpended and unencumbered moneys remaining in an account or fund established pursuant to section 3 and deemed to be in excess of the moneys necessary to carry out the purposes of this Act shall lapse to the credit of the general fund.

SECTION 12. This Act shall take effect on July 1, 2016, and shall be repealed on June 30, 2018.

(Approved June 30, 2016.)

### ACT 173

H.B. NO. 2077

A Bill for an Act Relating to Hydroelectric Power.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the development of hydroelectric energy-generating facilities in Hawaii is vital to the energy security and energy independence of the State. Increased use of renewable energy resources will achieve broad societal benefits, including resistance to oil price increases, environmental sustainability, economic development, and job creation.

The legislature further finds that while Hawaii's agricultural land is a fundamentally important and diminishing resource that is pivotal to the State's initiatives in food security, hydroelectric facilities may be located on agricultural lands in a manner that minimizes adverse impacts on agricultural activities and resources.

The purpose of this Act is to authorize, in agricultural districts, the construction of small hydropower facilities as defined by the United States Department of Energy.

SECTION 2. Section 205-2, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Agricultural districts shall include:

- (1) Activities or uses as characterized by the cultivation of crops, crops for bioenergy, orchards, forage, and forestry;
- (2) Farming activities or uses related to animal husbandry and game and fish propagation;
- (3) Aquaculture, which means the production of aquatic plant and animal life within ponds and other bodies of water;
- (4) Wind generated energy production for public, private, and commercial use;
- (5) Biofuel production, as described in section 205-4.5(a)(16), for public, private, and commercial use;
- (6) Solar energy facilities; provided that:
  - (A) This paragraph shall apply only to land with soil classified by the land study bureau’s detailed land classification as overall (master) productivity rating class B, C, D, or E; and
  - (B) Solar energy facilities placed within land with soil classified as overall productivity rating class B or C shall not occupy more than ten per cent of the acreage of the parcel, or twenty acres of land, whichever is lesser, unless a special use permit is granted pursuant to section 205-6;
- (7) Bona fide agricultural services and uses that support the agricultural activities of the fee or leasehold owner of the property and accessory to any of the above activities, regardless of whether conducted on the same premises as the agricultural activities to which they are accessory, including farm dwellings as defined in section 205-4.5(a)(4), employee housing, farm buildings, mills, storage facilities, processing facilities, photovoltaic, biogas, and other small-scale renewable energy systems producing energy solely for use in the agricultural activities of the fee or leasehold owner of the property, agricultural energy facilities as defined in section 205-4.5(a)(17), ~~hydroelectric facilities in accordance with section 205-4.5(a)(23),~~ vehicle and equipment storage areas, and plantation community subdivisions as defined in section 205-4.5(a)(12);
- (8) Wind machines and wind farms;
- (9) Small-scale meteorological, air quality, noise, and other scientific and environmental data collection and monitoring facilities occupying less than one-half acre of land; provided that these facilities shall not be used as or equipped for use as living quarters or dwellings;
- (10) Agricultural parks;
- (11) Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5;
- (12) Agricultural tourism activities, including overnight accommodations of twenty-one days or less, for any one stay within a county; provided that this paragraph shall apply only to a county that includes at least three islands and has adopted ordinances regulating agricultural tourism activities pursuant to section 205-5; provided

further that the agricultural tourism activities coexist with a bona fide agricultural activity. For the purposes of this paragraph, "bona fide agricultural activity" means a farming operation as defined in section 165-2;

- (13) Open area recreational facilities;
- (14) Geothermal resources exploration and geothermal resources development, as defined under section 182-1; ~~and~~
- (15) Agricultural-based commercial operations, including:
  - (A) A roadside stand that is not an enclosed structure, owned and operated by a producer for the display and sale of agricultural products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii;
  - (B) Retail activities in an enclosed structure owned and operated by a producer for the display and sale of agricultural products grown in Hawaii, value-added products that were produced using agricultural products grown in Hawaii, logo items related to the producer's agricultural operations, and other food items; and
  - (C) A retail food establishment owned and operated by a producer and permitted under title 11, chapter 12 of the rules of the department of health that prepares and serves food at retail using products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii.

The owner of an agricultural-based commercial operation shall certify, upon request of an officer or agent charged with enforcement of this chapter under section 205-12, that the agricultural products displayed or sold by the operation meet the requirements of this paragraph~~[-]; and~~

- (16) Hydroelectric facilities as described in section 205-4.5(a)(23).

Agricultural districts shall not include golf courses and golf driving ranges, except as provided in section 205-4.5(d). Agricultural districts include areas that are not used for, or that are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics."

SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Within the agricultural district, all lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A or B and for solar energy facilities, class B or C, shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including crops for bioenergy, flowers, vegetables, foliage, fruits, forage, and timber;
- (2) Game and fish propagation;
- (3) Raising of livestock, including poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use;
- (4) Farm dwellings, employee housing, farm buildings, or activities or uses related to farming and animal husbandry. "Farm dwelling", as used in this paragraph, means a single-family dwelling located on and used in connection with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling;
- (5) Public institutions and buildings that are necessary for agricultural practices;



- (6) Public and private open area types of recreational uses, including day camps, picnic grounds, parks, and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;
- (7) Public, private, and quasi-public utility lines and roadways, transformer stations, communications equipment buildings, solid waste transfer stations, major water storage tanks, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, treatment plants, corporation yards, or other similar structures;
- (8) Retention, restoration, rehabilitation, or improvement of buildings or sites of historic or scenic interest;
- (9) Agricultural-based commercial operations as described in section 205-2(d)(15);
- (10) Buildings and uses, including mills, storage, and processing facilities, maintenance facilities, photovoltaic, biogas, and other small-scale renewable energy systems producing energy solely for use in the agricultural activities of the fee or leasehold owner of the property, and vehicle and equipment storage areas that are normally considered directly accessory to the above-mentioned uses and are permitted under section 205-2(d);
- (11) Agricultural parks;
- (12) Plantation community subdivisions, which as used in this chapter means an established subdivision or cluster of employee housing, community buildings, and agricultural support buildings on land currently or formerly owned, leased, or operated by a sugar or pineapple plantation; provided that the existing structures may be used or rehabilitated for use, and new employee housing and agricultural support buildings may be allowed on land within the subdivision as follows:
  - (A) The employee housing is occupied by employees or former employees of the plantation who have a property interest in the land;
  - (B) The employee housing units not owned by their occupants shall be rented or leased at affordable rates for agricultural workers; or
  - (C) The agricultural support buildings shall be rented or leased to agricultural business operators or agricultural support services;
- (13) Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5;
- (14) Agricultural tourism activities, including overnight accommodations of twenty-one days or less, for any one stay within a county; provided that this paragraph shall apply only to a county that includes at least three islands and has adopted ordinances regulating agricultural tourism activities pursuant to section 205-5; provided further that the agricultural tourism activities coexist with a bona

fide agricultural activity. For the purposes of this paragraph, “bona fide agricultural activity” means a farming operation as defined in section 165-2;

- (15) Wind energy facilities, including the appurtenances associated with the production and transmission of wind generated energy; provided that the wind energy facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land;
- (16) Biofuel processing facilities, including the appurtenances associated with the production and refining of biofuels that is normally considered directly accessory and secondary to the growing of the energy feedstock; provided that biofuel processing facilities and appurtenances do not adversely impact agricultural land and other agricultural uses in the vicinity.

For the purposes of this paragraph:

“Appurtenances” means operational infrastructure of the appropriate type and scale for economic commercial storage and distribution, and other similar handling of feedstock, fuels, and other products of biofuel processing facilities.

“Biofuel processing facility” means a facility that produces liquid or gaseous fuels from organic sources such as biomass crops, agricultural residues, and oil crops, including palm, canola, soybean, and waste cooking oils; grease; food wastes; and animal residues and wastes that can be used to generate energy;

- (17) Agricultural-energy facilities, including appurtenances necessary for an agricultural-energy enterprise; provided that the primary activity of the agricultural-energy enterprise is agricultural activity. To be considered the primary activity of an agricultural-energy enterprise, the total acreage devoted to agricultural activity shall be not less than ninety per cent of the total acreage of the agricultural-energy enterprise. The agricultural-energy facility shall be limited to lands owned, leased, licensed, or operated by the entity conducting the agricultural activity.

As used in this paragraph:

“Agricultural activity” means any activity described in paragraphs (1) to (3) of this subsection.

“Agricultural-energy enterprise” means an enterprise that integrally incorporates an agricultural activity with an agricultural-energy facility.

“Agricultural-energy facility” means a facility that generates, stores, or distributes renewable energy as defined in section 269-91 or renewable fuel including electrical or thermal energy or liquid or gaseous fuels from products of agricultural activities from agricultural lands located in the State.

“Appurtenances” means operational infrastructure of the appropriate type and scale for the economic commercial generation, storage, distribution, and other similar handling of energy, including equipment, feedstock, fuels, and other products of agricultural-energy facilities;

- (18) Construction and operation of wireless communication antennas; provided that, for the purposes of this paragraph, “wireless communication antenna” means communications equipment that is either freestanding or placed upon or attached to an already existing structure and that transmits and receives electromagnetic radio sig-

nals used in the provision of all types of wireless communications services; provided further that nothing in this paragraph shall be construed to permit the construction of any new structure that is not deemed a permitted use under this subsection;

- (19) Agricultural education programs conducted on a farming operation as defined in section 165-2, for the education and participation of the general public; provided that the agricultural education programs are accessory and secondary to the principal agricultural use of the parcels or lots on which the agricultural education programs are to occur and do not interfere with surrounding farm operations. For the purposes of this ~~section;~~ paragraph, "agricultural education programs" means activities or events designed to promote knowledge and understanding of agricultural activities and practices conducted on a farming operation as defined in section 165-2;
- (20) Solar energy facilities that do not occupy more than ten per cent of the acreage of the parcel, or twenty acres of land, whichever is lesser or for which a special use permit is granted pursuant to section 205-6; provided that this use shall not be permitted on lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A unless the solar energy facilities are:
  - (A) Located on a paved or unpaved road in existence as of December 31, 2013, and the parcel of land upon which the paved or unpaved road is located has a valid county agriculture tax dedication status or a valid agricultural conservation easement;
  - (B) Placed in a manner that still allows vehicular traffic to use the road; and
  - (C) Granted a special use permit by the commission pursuant to section 205-6;
- (21) Solar energy facilities on lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating B or C for which a special use permit is granted pursuant to section 205-6; provided that:
  - (A) The area occupied by the solar energy facilities is also made available for compatible agricultural activities at a lease rate that is at least fifty per cent below the fair market rent for comparable properties;
  - (B) Proof of financial security to decommission the facility is provided to the satisfaction of the appropriate county planning commission prior to date of commencement of commercial generation; and
  - (C) Solar energy facilities shall be decommissioned at the owner's expense according to the following requirements:
    - (i) Removal of all equipment related to the solar energy facility within twelve months of the conclusion of operation or useful life; and
    - (ii) Restoration of the disturbed earth to substantially the same physical condition as existed prior to the development of the solar energy facility.

For the purposes of this paragraph, "agricultural activities" means the activities described in paragraphs (1) to (3);
- (22) Geothermal resources exploration and geothermal resources development, as defined under section 182-1; or

- (23) Hydroelectric facilities, including the appurtenances associated with the production and transmission of hydroelectric energy, subject to section 205-2; provided that the hydroelectric facilities and their appurtenances:
- (A) ~~[Have a hydroelectric generating capacity of not more than five hundred kilowatts;]~~ Shall consist of a small hydropower facility as defined by the United States Department of Energy, including:
    - (i) Impoundment facilities using a dam to store water in a reservoir;
    - (ii) A diversion or run-of-river facility that channels a portion of a river through a canal or channel; and
    - (iii) Pumped storage facilities that store energy by pumping water uphill to a reservoir at higher elevation from a reservoir at a lower elevation to be released to turn a turbine to generate electricity;
  - (B) Comply with the state water code, chapter 174C;
  - (C) ~~[Are accessory to agricultural activities on agricultural land for agricultural use only; and]~~ Shall, if over five hundred kilowatts in hydroelectric generating capacity, have the approval of the commission on water resource management, including a new instream flow standard established for any new hydroelectric facility; and
  - (D) Do not ~~[adversely]~~ impact or impede the use of agricultural land or the availability of surface or ground water for all uses on all parcels that are served by the ground water sources or streams for which hydroelectric facilities are considered.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2016; provided that the amendments made to section 205-4.5(a)(23), Hawaii Revised Statutes, by section 3 of this Act shall not be repealed when section 205-4.5, Hawaii Revised Statutes, is reenacted on June 30, 2019, pursuant to section 3 of Act 52, Session Laws of Hawaii 2014.

(Approved June 30, 2016.)

## ACT 174

S.B. NO. 2217

A Bill for an Act Relating to Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that reliable irrigation systems are the lifelines of Hawaii's agricultural community. To ensure that Hawaii's agricultural crops receive a steady and dependable supply of water, irrigation systems need to be repaired, properly maintained, and improved to meet agricultural water requirements and to address extended water droughts.

The purpose of this Act is to appropriate funds for the operation, repair, maintenance, and improvement of the East Kauai irrigation system by the East Kauai Water Users' Cooperative.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$75,000 or so much thereof as may be necessary for fiscal year 2016-2017 for operation, repair, maintenance, and improvement costs for the East Kauai irrigation system by the East Kauai Water Users' Cooperative.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved June 30, 2016.)

**ACT 175**

S.B. NO. 2788

A Bill for an Act Relating to the Molokai Irrigation System Water Users Advisory Board.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 167-23, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) All members of the advisory board shall be:

- (1) Molokai irrigation system users[;] or their agents, officers, or employees; and
- (2) Residents of the island of Molokai[;] ~~and~~
- (3) ~~Active general excise tax licensees].”~~

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 30, 2016.)

**ACT 176**

H.B. NO. 2569

A Bill for an Act Relating to Energy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the current governor has pledged to address the challenges facing Hawaii's classrooms, including soaring temperatures, outdated infrastructure, and costly electric bills throughout the State.

The legislature also finds that the University of Hawaii is progressing toward becoming energy net-zero by producing as much renewable energy as the system consumes by 2035. This progress will reduce the university's energy costs, contribute to Hawaii's clean energy goals, and make better use of limited resources. A similar opportunity to save on long-term energy costs and maximize limited resources exists in Hawaii's elementary, middle, and high schools. The department of education spends approximately \$48,000,000 annually for electricity. By implementing a program similar to the university program, the large sum of money used for utility services could be redirected broadly on projects that will improve the learning environment, such as cooling solutions, better

learning tools for students, enriching sports, arts, and extracurricular programs, and increasing pay to hire and retain better teachers.

Temperatures in Hawaii's kindergarten through grade twelve classrooms can reach over one hundred degrees Fahrenheit, far exceeding the ideal conditions in which children and teachers are effectively able to perform. Reducing temperatures in hot classrooms is critical to increasing student learning. A recent peer-reviewed study by the Harvard School of Public Health, "The Impact of Green Buildings on Cognitive Function," found that cognitive scores were over one hundred per cent higher in enhanced green building conditions with adequate ventilation that lowered carbon dioxide levels and provided a comfortable indoor environment. Other recent studies have shown increases in cognitive function and student performance in classrooms with daytime light emitting diode lighting over traditional fluorescent or incandescent lighting.

Installing more efficient lighting, natural ventilation, and integrating innovative renewable technologies such as solar panels and batteries can help power schools, reduce electricity costs, and improve student performance. Powering new classroom air conditioning units with solar panels and batteries without the need to connect to the electric grid can also reduce costs by eliminating the need for costly campus electrical upgrades, and will not add significant new costs to public school electric bills. Therefore, the legislature finds that it is in the public's interest to maximize the use of effective renewable technologies to reduce air conditioning installation and operating costs.

The purpose of this Act is to accelerate the goals of the department of education to cool Hawaii's schools, reduce energy costs, meet Hawaii's clean energy goals, and provide all students with better classrooms in which to learn.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to part VI to be appropriately designated and to read as follows:

**"§302A- Sustainable schools initiative.** (a) The department shall establish a goal of becoming net-zero with respect to energy use, producing as much renewable energy as the department consumes across all public school facilities, by January 1, 2035.

(b) The department shall use the amount and value of energy consumed by the department across all public school facilities during the 2015-2016 fiscal year as the benchmark for measuring the department's progress toward the energy usage goal set forth in subsection (a).

(c) The department shall submit an annual report that shall include information on:

- (1) The overall progress toward the net-zero energy goal set forth in subsection (a);
- (2) Its plans and recommendations to advance the net-zero energy goal set forth in subsection (a); and
- (3) Any challenges or barriers encountered or anticipated by the department in meeting the net-zero energy goal set forth in subsection (a).

(d) The department shall expedite the cooling of all public school classrooms to a temperature acceptable for student learning. When implementing classroom cooling measures, the department, and any contractor hired to implement classroom cooling measures, shall maximize energy efficiency and installation and operating cost savings over the entire life of the project.

(e) Pursuant to this section, the department shall include in the report the status of the implementation of measures taken to cool public school

classrooms as required by subsection (d). The report shall include the following information:

- (1) The number of completed classrooms in which cooling measures were implemented and the number of classrooms remaining that require cooling;
  - (2) The different types of cooling measures implemented;
  - (3) The approximate cost per classroom for planned cooling measures, including installation, upgrades, equipment, maintenance, and projected operating costs over the life of the installed cooling measures;
  - (4) The approximate cost per completed classroom for cooling measures implemented, including installation, upgrades, equipment, maintenance, and projected operating costs over the life of the installed cooling measures;
  - (5) The number of completed classrooms in which energy efficiency measures were installed or implemented and the number of classrooms remaining that require energy efficiency measures; and
  - (6) The different types of energy efficiency measures installed or implemented.
- (f) The department shall report its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of each regular session.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 30, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 177**

S.B. NO. 2476

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that children who are deaf, hard of hearing, or deaf-blind have the same ability and capability to learn language as their peers who do not have a similar disability. The ability and right to develop language are central to the human experience and necessary prerequisites to literacy as well as cognitive, emotional, linguistic, academic, and social growth and the chance for children to evolve into healthy and productive members of society.

The legislature further finds that the department of health and the department of education are committed to collaborating to improve services for children who are deaf, hard of hearing, or deaf-blind so that they begin kindergarten with the necessary language skills to acquire the knowledge and academic competencies that will allow them to be successful in school and life.

The legislature further finds that under the Individuals with Disabilities Education Act (IDEA), P.L. 108-446:

- (1) The department of health, early intervention section is responsible, under part C, for the provision of early intervention services as iden-

- tified in the child's individualized family support plan to children from birth to age three years with special needs and their families;
- (2) The department of education is responsible, under part B, for the provision of special education and related services as identified in the child's individualized education program to children age three to five years with special needs; and
  - (3) The executive office on early learning is responsible for coordinating the early childhood education services in the pre-kindergarten program within the public school system.

The legislature further finds that children who are deaf, hard of hearing, or deaf-blind are diverse and include children with congenital or acquired hearing loss, unilateral and bilateral hearing loss, all degrees of hearing loss from minimal to profound, and all types of hearing loss.

The purpose of this Act is to:

- (1) Enhance early language services for children from birth to age five years who are deaf, hard of hearing, or deaf-blind within the department of health to support age-appropriate language development; and
- (2) Establish a working group for the purposes of investigating issues related to resources and tools for parents of children who are deaf, hard of hearing, or deaf-blind and improvements to the statewide system of services that support age-appropriate language development for children from birth to age five who are deaf, hard of hearing, or deaf-blind.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part XXVIII to be appropriately designated and to read as follows:

**"§321- Early language services for children who are deaf, hard of hearing, or deaf-blind.** Early intervention services for infants and toddlers may include, but not be limited to, service providers and mentors of the deaf, hard of hearing, or deaf-blind who use American sign language; service providers and mentors of the deaf who use oral language; American sign language teachers for families of young children; family-to-family support; and training of early intervention providers."

SECTION 3. (a) The department of health, department of education, and executive office on early learning shall establish and convene a working group for the purpose of making recommendations to the legislature on issues related to supporting age-appropriate development for children from birth to age five years who are deaf, hard of hearing, or deaf-blind. The working group shall include the following members to be selected by the director of health:

- (1) One parent of a child who is deaf, hard of hearing, or deaf-blind who uses American sign language;
- (2) One parent of a child who is deaf, hard of hearing, or deaf-blind who uses oral language;
- (3) One parent of a child who is deaf, hard of hearing, or deaf-blind who uses a cochlear implant device;
- (4) One parent of a child who is deaf-blind;
- (5) One individual who is deaf, hard of hearing, or deaf-blind who uses American sign language;
- (6) One individual who is deaf, hard of hearing, or deaf-blind who uses oral language;



- (7) One credentialed teacher who uses American sign language for children under age six years who are deaf, hard of hearing, or deaf-blind;
- (8) One credentialed teacher who uses oral language for children under age six years who are deaf, hard of hearing, or deaf-blind;
- (9) One early intervention specialist who works with infants and toddlers using American sign language;
- (10) One early intervention specialist who works with infants and toddlers using oral language;
- (11) One audiologist or speech language pathologist with knowledge of language assessment and intervention for children who are deaf, hard of hearing, or deaf-blind;
- (12) One representative from the English as a second language community;
- (13) One representative from the department of health disability and communication access board;
- (14) One representative from the department of health newborn hearing screening program;
- (15) One representative from the department of health early intervention section;
- (16) One representative from the department of education; and
- (17) One representative from the executive office on early learning.

Excluding the members who are parents of children who are deaf, hard of hearing, or deaf-blind, the majority of the remaining members shall be deaf, hard of hearing, or deaf-blind and represent the diversity of their community which includes deaf culture, hard of hearing, cochlear implant and hearing aid users, unilateral hearing loss, auditory neural hearing loss, and cultural diversity. At least one member shall be a representative from the county of Hawaii, Maui, or Kauai. At least one parent member shall be deaf, hard of hearing, or deaf-blind. Two parent members shall have children who are deaf, hard of hearing, or deaf-blind who are under six years of age at the time of appointment by the director of health.

(b) The working group shall examine, research, and make recommendations for the following:

- (1) A resource guide for parents of children who are deaf, hard of hearing, or deaf-blind that may include milestones of age-appropriate language development, websites related to deafness and hearing loss, national and state organizations and resources for families, terms and definitions related to deafness and hearing loss, and communication choices;
- (2) Tools used to assess and plan language development services for children from birth to age five years who are deaf, hard of hearing, or deaf-blind;
- (3) Data and the availability of data on the language and literacy development for children from birth to age five years who are deaf, hard of hearing, or deaf-blind;
- (4) Improvements concerning the statewide system of services that support age-appropriate language development for children from birth to age five years who are deaf, hard of hearing, or deaf-blind; and
- (5) Improvements concerning the transition of children at age three years from the department of health early intervention services to the department of education services.

(c) All activities of the departments of health and education in implementing this section shall be consistent with federal law regarding early intervention and the education of children with disabilities.

(d) The working group shall submit an interim report of its findings and recommendations, including any proposed legislation and a proposed extension of the working group, to the legislature no later than twenty days prior to the convening of the regular session of 2017, and a final report of the working group's findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2018.

(e) The working group shall cease to exist on June 30, 2018.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved June 30, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 178

H.B. NO. 1668

A Bill for an Act Relating to the Use of a Dog in Judicial Proceedings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

“§ - **Use of a facility dog.** (a) For purposes of this section:

“Facility dog” means a dog that is a graduate of an assistance dog organization that is accredited by Assistance Dogs International or a similar internationally recognized organization whose main purpose is to grant accreditation to assistance dog organizations based on standards of excellence in all areas of assistance dog acquisition, training, and placement. A “facility dog” shall be specially trained to provide emotional support to witnesses testifying in judicial proceedings without causing a distraction during the proceedings.

“Vulnerable witness” means a witness whose ability to testify in a judicial proceeding will be hampered or ineffective without the assistance of a facility dog, for reasons including but not limited to intellectual or emotional disability, intimidation, or age.

(b) A court may permit the use of a facility dog in a judicial proceeding involving the testimony of a vulnerable witness if the court determines that there is a compelling necessity for the use of a facility dog to facilitate the testimony of the vulnerable witness.

(c) Before the use of a facility dog in a judicial proceeding, the moving party shall file a motion certifying to the court:

- (1) The credentials of the facility dog;
- (2) That the facility dog is adequately insured; and
- (3) That a relationship has been established between the witness and the facility dog.

(d) To the extent necessary, the court may impose restrictions, or instructions to the jury, regarding the presence of the facility dog during the proceedings.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 30, 2016.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 179

H.B. NO. 2626

A Bill for an Act Relating to Underground Storage Tanks.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that climate change is real and that sea level rise poses a threat to our quality of life. Preparation for sea level rise now will protect our natural resources and save money in the long term. Inundation of underground fuel storage tanks poses risks to our aquifers, coastal water quality, and marine ecosystems.

The purpose of this Act is to:

- (1) Prohibit the issuance of permits for new underground fuel storage tanks within one hundred yards of the shoreline;
- (2) Allow for permits for existing underground fuel storage tanks for purposes of repair or replacement of the existing underground fuel storage tank; and
- (3) Beginning January 1, 2045, prohibit operation of and renewal of a permit for an underground fuel storage tank within one hundred yards of the shoreline.

SECTION 2. Chapter 342L, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§342L- Permits near shoreline prohibited; exception.** (a) The department shall not issue a permit for a new underground fuel storage tank within one hundred yards of the shoreline; provided that a permit may be issued by the department for purposes of repairing or replacing an existing underground fuel storage tank.

(b) Except as otherwise provided in subsection (c), the holder of a permit for an existing underground fuel storage tank within one hundred yards of the shoreline may renew the permit.

(c) Beginning January 1, 2045, no person shall operate an underground fuel storage tank within one hundred yards of the shoreline, and no permit for an underground fuel storage tank within one hundred yards of the shoreline shall be renewed.”

SECTION 3. Section 342L-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

**““Shoreline” means the upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves.”**

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved July 1, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 180**

S.B. NO. 911

A Bill for an Act Relating to Latex.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the unrestricted use of latex is a serious concern because it can cause allergic reactions including mild rash, impaired breathing, and even deadly anaphylaxis. Approximately 3,000,000 people in the general population of the United States are allergic to latex, and the incidence rate of the allergy is higher in certain at-risk populations. Nearly sixty-eight per cent of children with spina bifida and nearly seventeen per cent of health care workers have a latex allergy.

Exposure to the allergen latex proteins can occur in a variety of settings. Research has shown that latex proteins can be transferred from natural rubber latex gloves to the food that is prepared and served in food establishments.

The legislature also finds that major leading hospitals ban the use of latex gloves. For example, Johns Hopkins Hospital banned almost all latex medical products, including latex gloves, which were banned since 2008. Furthermore, several states prohibit or strictly regulate the use of latex gloves in food establishments.

The legislature believes that the significant risk of a severe allergic reaction to latex justifies limiting its use. The purpose of this Act is to protect the public by prohibiting the use of latex gloves:

- (1) With limited exceptions, by personnel working in dental health facilities or health care facilities;
- (2) By personnel providing ambulance services or emergency medical services; and
- (3) By personnel working in food establishments.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**“§321- Dental health facilities; health care facilities; use of latex gloves.** All personnel working in dental health facilities or health care facilities, including all facilities listed in section 321-11(10), shall be prohibited from using latex gloves for patient care where the patient is unconscious or otherwise physically unable to communicate. Where the patient is conscious and physically able to communicate, latex gloves may be used if the patient affirmatively states that the patient is not allergic to latex.”

SECTION 3. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part XVIII to be appropriately designated and to read as follows:

**“§321- Emergency medical services; use of latex gloves prohibited.** The use of latex gloves by personnel providing ambulance services or emergency medical services pursuant to this part shall be prohibited.”

SECTION 4. Chapter 328, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**“§328- Food establishments; use of latex gloves prohibited.** The use of latex gloves by personnel in a food establishment permitted under title 11, chapter 50 of the Hawaii administrative rules, shall be prohibited.”

SECTION 5. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval; provided that sections 2, 3, and 4 shall take effect on January 1, 2017.

(Approved July 1, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 181**

S.B. NO. 2886

A Bill for an Act Relating to Age of Consent for Adolescent Mental Health Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 577, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§577- Mental health services relating to minors; diagnosis, counseling, and related activities.** (a) Notwithstanding any other law to the contrary, a minor who is fourteen years of age or older may consent to mental health treatment or counseling services provided by a licensed mental health professional if, in the opinion of the licensed mental health professional, the minor is mature enough to participate intelligently in the mental health treatment or counseling services; provided that the consent of the minor's parent or legal guardian shall be required to prescribe medication to the minor or to place the minor into an out-of-home or residential treatment program.

(b) The mental health treatment or counseling services provided to a minor as authorized by this section shall include involvement of the minor's parent or legal guardian, unless the licensed mental health professional, after consulting with the minor, determines that the involvement would be inappropriate. The licensed mental health professional shall state in the client record whether and when the treating clinician attempted to contact the minor's parent or legal guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the treating licensed mental health professional's opinion, it would be inappropriate to contact the minor's parent or guardian.

(c) A minor may not abrogate consent provided by a parent or legal guardian on the minor's behalf. A parent or legal guardian may not abrogate consent given by the minor on the minor's own behalf.

(d) If a minor consents to receive mental health treatment or counseling services pursuant to this section, the minor shall not be liable for payment.

(e) The minor's parent or legal guardian is not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling services, and then only for services rendered with the participation of the parent or guardian.

(f) As used in this section:

"Mental health treatment or counseling services" means the provision of outpatient mental health treatment or counseling by a licensed mental health professional.

"Licensed mental health professional" means any of the following:

- (1) A person licensed as a mental health counselor pursuant to chapter 453D;
- (2) A person licensed as a marriage and family therapist pursuant to chapter 451J;
- (3) A clinical social worker licensed pursuant to chapter 467E;
- (4) A person licensed as a psychologist pursuant to chapter 465; or
- (5) A board certified, or board eligible, licensed psychiatrist."

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved July 1, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 182

S.B. NO. 3084

A Bill for an Act Relating to Cesspools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-16.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The cesspool upgrade, conversion, or connection income tax credit shall be equal to the qualified expenses of the taxpayer, up to a maximum of \$10,000; provided that, in the case of a qualified cesspool that is a residential large capacity cesspool, the amount of the credit shall be equal to the qualified expenses of the taxpayer, up to a maximum of \$10,000 per residential dwelling connected to the cesspool, as certified by the department of health pursuant to subsection (e). There shall be allowed a maximum of one cesspool upgrade, conversion, or connection income tax credit per qualified cesspool~~[-]~~ or per tax map key number where more than one residence is connected to a residential large-capacity cesspool. The cesspool upgrade, conversion, or connection income tax credit shall be available only for the taxable year in which the taxpayer's qualified expenses are certified by the appropriate government agency."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon approval, and shall apply to taxable years beginning after December 31, 2015.

(Approved July 1, 2016.)

ACT 183

S.B. NO. 2672

A Bill for an Act Relating to Advanced Practice Registered Nurses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that advanced practice registered nurses provide a wide variety of health care services to people in Hawaii. The legislature further finds that section 323-3, Hawaii Revised Statutes, requires each hospital within the State to allow advanced practice registered nurses to practice within the full scope of their practice, including as primary care providers. Advanced practice registered nurses are also recognized as participating primary health care providers for insurance purposes under the State's insurance code.

The legislature also finds that certain sections within the Hawaii Revised Statutes omit advanced practice registered nurses from the definitions or designations of health care entities who may provide health care, prescribe drugs, or sign forms. The outdated statutes must be amended to authorize increased participation by advanced practice registered nurses and recognize appropriately trained advanced practice registered nurses as primary care providers. Authorizing increased participation by advanced practice registered nurses in certain circumstances, especially with regard to global signature authority, will enable improved access to health care services, expedite the process of processing paperwork, and provide optimal care at the initial point of access for Hawaii patients, especially in rural and underserved areas.

The purpose of this Act is to improve patient access to medical care by clarifying the circumstances under which advanced practice registered nurses may practice to the fullest extent of their training and education.

SECTION 2. Section 328-1, Hawaii Revised Statutes, is amended by amending the definition of "out-of-state practitioner" to read as follows:

"“Out-of-state practitioner” means a physician, surgeon, osteopathic physician and surgeon, advanced practice registered nurse, dentist, podiatrist, or veterinarian authorized to prescribe drugs to patients under the applicable laws of any state of the United States except the State of Hawaii, or a physician, surgeon, osteopathic physician and surgeon, advanced practice registered nurse, dentist, podiatrist, or veterinarian authorized to prescribe drugs under the applicable laws of Hawaii, but practicing in a state other than Hawaii.”

SECTION 3. Section 334-59, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Emergency examination. A patient who is delivered for emergency examination and treatment to a facility designated by the director shall be examined by a licensed physician or advanced practice registered nurse without unnecessary delay, and may be given such treatment as is indicated by good medical practice. A psychiatrist, advanced practice registered nurse, or psychologist may further examine the patient to diagnose the presence or absence of a mental disorder, assess the risk that the patient may be dangerous to self or others, and assess whether or not the patient needs to be hospitalized.”

SECTION 4. Section 338-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In preparing a certificate of death or fetal death the person in charge of the disposition of the body shall:

- (1) Obtain and enter on the certificate the personal data and other information pertaining to the deceased person required by the department from the person best qualified to supply them;
- (2) Present the certificate of death to the physician or advanced practice registered nurse last in attendance upon the deceased, or to the coroner’s physician, who shall thereupon certify the cause of death to the physician’s or advanced practice registered nurse’s best knowledge and belief, or present the certificate of fetal death to the physician, advanced practice registered nurse, midwife, or other person in attendance at the fetal death, who shall certify the fetal death and such medical data pertaining thereto as can be furnished; provided that fetal deaths of less than twenty-four weeks or intentional terminations of pregnancy performed in accordance with section 453-16 may be certified by a nurse or other employee based upon the physician’s records; and
- (3) Notify immediately the appropriate local agent, if the death occurred without medical attendance, or if the physician or advanced practice registered nurse last in attendance fails to sign the death certificate. In such event the local agent shall inform the local health officer, and refer the case to the local health officer for immediate investigation and certification of the cause of death prior to issuing a permit for burial, or other disposition of the body. When the local health officer is not a physician or when there is no such officer, the local agent may complete the certificate on the basis of information received from relatives of the deceased or others having knowledge of the facts.

If the circumstances of the case suggest that the death or fetal death was caused by other than natural causes, the local agent shall refer the case to the coroner for investigation and certification.”

SECTION 5. Section 338-10, Hawaii Revised Statutes, is amended to read as follows:

**“§338-10 Late determination of the cause of death.** If the cause of death cannot be determined within three days, the certification of its cause may be filed after the prescribed period, but the attending physician, advanced practice registered nurse, or coroner’s physician shall notify in writing the local agent of the department of health of the district in which the death occurred of the reason for late filing, in order that a permit for the disposition of the body may be issued.

As used in this section, “late” means more than three days after the date of death.”

SECTION 6. Section 386-1, Hawaii Revised Statutes, is amended by amending the definition of “health care provider” to read as follows:

““Health care provider” means a person qualified by the director to render health care and service and who has a license for the practice of:

- (1) Medicine or osteopathy under chapter 453;
- (2) Dentistry under chapter 448;
- (3) Chiropractic under chapter 442;



- (4) Naturopathic medicine under chapter 455;
- (5) Optometry under chapter 459;
- (6) Podiatry under chapter 463E; ~~and~~
- (7) Psychology under chapter 465[-]; ~~and~~
- (8) Advanced practice registered nurse under chapter 457.

SECTION 7. Section 386-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All health care providers rendering health care and services under this chapter shall be qualified by the director and shall remain qualified by satisfying the requirements established in this section. The director shall qualify any person initially who has a license for the practice of:

- (1) Medicine or osteopathy under chapter 453;
- (2) Dentistry under chapter 448;
- (3) Chiropractic under chapter 442;
- (4) Naturopathic medicine under chapter 455;
- (5) Optometry under chapter 459;
- (6) Podiatry under chapter 463E; ~~and~~
- (7) Psychology under chapter 465[-]; ~~and~~
- (8) Advanced practice registered nurses under chapter 457.

SECTION 8. Section 457-8.6, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Advanced practice registered nurses shall be considered qualified if they have met the requirements of section 457-8.5(a), and have met the advanced pharmacology requirements for initial prescriptive authority pursuant to rules adopted by the board. Only qualified advanced practice registered nurses authorized to diagnose, prescribe, and institute therapy or referrals of patients to health care agencies, health care providers, and community resources and, only as appropriate to the practice specialty in which the advanced practice ~~registered~~ nurse is qualified, may:

- (1) Prescribe and administer over the counter drugs, legend drugs, and controlled substances pursuant to this chapter and to chapter 329 and request, receive, and dispense manufacturers' prepackaged samples of over the counter drugs, and non-controlled legend drugs to patients under their care; provided that an advanced practice registered nurse shall not request, receive, or sign for professional controlled substance samples;
- (2) Prescribe, order, and dispense medical devices and equipment; and
- (3) Plan and initiate a therapeutic regimen that includes nutritional, diagnostic, and supportive services including home health care, hospice, and physical and occupational therapy.”

SECTION 9. Section 461-1, Hawaii Revised Statutes, is amended by amending the definition of “practice of pharmacy” to read as follows:

““Practice of pharmacy” means:

- (1) The interpretation and evaluation of prescription orders; the compounding, dispensing, and labeling of drugs and devices (except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially legend drugs and devices); the participation in drug selection and drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records therefor; the responsibility for advising when necessary or where

regulated, of therapeutic values, content, hazards, and use of drugs and devices;

- (2) Performing the following procedures or functions as part of the care provided by and in concurrence with a "health care facility" and "health care service" as defined in section 323D-2, or a "pharmacy" or a licensed physician[;] or a licensed advanced practice registered nurse with prescriptive authority, or a "managed care plan" as defined in section 432E-1, in accordance with policies, procedures, or protocols developed collaboratively by health professionals, including physicians and surgeons, pharmacists, and registered nurses, and for which a pharmacist has received appropriate training required by these policies, procedures, or protocols:
  - (A) Ordering or performing routine drug therapy related patient assessment procedures;
  - (B) Ordering drug therapy related laboratory tests;
  - (C) Initiating emergency contraception oral drug therapy in accordance with a written collaborative agreement approved by the board, between a licensed physician or advanced practice registered nurse with prescriptive authority and a pharmacist who has received appropriate training that includes programs approved by the American Council of Pharmaceutical Education (ACPE), curriculum-based programs from an ACPE-accredited college of pharmacy, state or local health department programs, or programs recognized by the board of pharmacy;
  - (D) Administering drugs orally, topically, by intranasal delivery, or by injection, pursuant to the order of the patient's licensed [physician's order,] physician or advanced practice registered nurse with prescriptive authority, by a pharmacist having appropriate training that includes programs approved by the ACPE, curriculum-based programs from an ACPE-accredited college of pharmacy, state or local health department programs, or programs recognized by the board of pharmacy;
  - (E) Administering:
    - (i) Immunizations orally, by injection, or by intranasal delivery, to persons eighteen years of age or older by a pharmacist having appropriate training that includes programs approved by the ACPE, curriculum-based programs from an ACPE-accredited college of pharmacy, state or local health department programs, or programs recognized by the board of pharmacy; and
    - (ii) Vaccines to persons between fourteen and seventeen years of age pursuant to section 461-11.4;
  - (F) As authorized by the written instructions of a licensed [physician's written instructions,] physician or advanced practice registered nurse with prescriptive authority, initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's licensed physician or advanced practice registered nurse with prescriptive authority and related to the condition for which the patient has been seen by the licensed physician[;] or advanced practice registered nurse with prescriptive authority; provided that the pharmacist shall issue written notification to the patient's licensed physician or advanced practice registered nurse with prescriptive authority or enter the appropriate information in an electronic patient

- record system shared by the licensed physician[;] or advanced practice registered nurse with prescriptive authority, within twenty-four hours;
- (G) Transmitting a valid prescription to another pharmacist for the purpose of filling or dispensing; or
  - (H) Providing consultation, information, or education to patients and health care professionals based on the pharmacist's training and for which no other licensure is required; and
- (3) The offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy."

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval; provided that the amendments made to section 334-59(b), Hawaii Revised Statutes, by section 3 of this Act shall not be repealed when that section is reenacted on July 1, 2020, pursuant to section 24 of Act 221, Session Laws of Hawaii 2013.

(Approved July 1, 2016.)

## ACT 184

S.B. NO. 2384

A Bill for an Act Relating to Licensing Inspections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the department of health is responsible for licensing, certifying, and monitoring several types of facilities, including care facilities and medical marijuana production centers and dispensaries, to ensure a standard of quality. To ensure that these facilities are providing a high standard of quality on a day-to-day basis, inspections and visits of these facilities should be unannounced to prevent a prepared appearance that does not truly portray the regular quality of operations that the facility provides on an ongoing basis.

The purpose of this Act is to require the department of health to:

- (1) Conduct visits and relicensing or recertification inspections without notice for state-licensed or state-certified care facilities and unannounced inspections for license renewals for medical marijuana production centers and dispensaries; and
- (2) Submit reports to the legislature prior to the regular sessions of 2017, 2018, and 2019 on the number of unannounced visits and inspections on state-licensed or state-certified care homes specified in this Act.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§321- Inspections; visits; state-licensed or state-certified care facilities.** (a) The department of health shall conduct unannounced visits and inspections, including inspections for relicensing or recertification, for the following state-licensed or state-certified care facilities on an annual basis and at such in-

tervals as determined by the department to ensure the health, safety, and welfare of each resident:

- (1) Adult day health centers;
- (2) Adult day care centers;
- (3) Community care foster family homes;
- (4) Developmental disabilities domiciliary homes;
- (5) Adult foster homes;
- (6) Long-term care facilities, including but not limited to:
  - (A) Adult residential care homes;
  - (B) Expanded adult residential care homes;
  - (C) Assisted living facilities;
  - (D) Intermediate care facilities;
  - (E) Nursing facilities; and
  - (F) Skilled nursing facilities; and
- (7) Special treatment facilities.

(b) Unannounced visits may be conducted during or outside regular business hours. All inspections relating to follow-up visits, visits to confirm correction of deficiencies, or visits to investigate complaints or suspicion of abuse or neglect shall be conducted unannounced during or outside regular business hours. Annual inspections for relicensing or recertification may be conducted during regular business hours or at intervals determined by the department. Annual inspections for relicensing or recertification shall be conducted without notice.

(c) The department shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section."

SECTION 3. Section 321-15.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All adult residential care homes shall be licensed to ensure the health, safety, and welfare of the individuals placed therein. The department shall conduct ~~[unannounced visits, other than the inspection for relicensing, to every licensed adult residential care home and expanded adult residential care home on an annual basis and at such intervals as determined by the department to ensure the health, safety, and welfare of each resident. Unannounced visits may be conducted during or outside regular business hours. All inspections relating to follow-up visits, visits to confirm correction of deficiencies, or visits to investigate complaints or suspicion of abuse or neglect shall be conducted unannounced during or outside regular business hours. Annual inspections for relicensing may be conducted during regular business hours or at intervals determined by the department. Annual inspections for relicensing shall be conducted with notice, unless otherwise determined by the department.]~~ visits and inspections pursuant to section 321- ."

SECTION 4. Section 321-15.62, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All expanded adult residential care homes shall be licensed to ensure the health, safety, and welfare of the individuals placed therein. The department shall conduct visits and inspections pursuant to section 321- ."

SECTION 5. Section 329D-4, Hawaii Revised Statutes, is amended by amending subsection (n) to read as follows:

"(n) A dispensary license may be renewed annually by payment of an annual renewal fee of \$50,000 and subject to verification by the department through an unannounced inspection that the individual licensee and entity li-

censee continue to meet all licensing requirements from the date the initial licenses were issued.”

SECTION 6. Section 329D-7, Hawaii Revised Statutes, is amended to read as follows:

“~~§~~**§329D-7** **Medical marijuana dispensary rules.** The department shall establish standards with respect to:

- (1) The number of medical marijuana dispensaries that shall be permitted to operate in the State;
- (2) A fee structure for the submission of applications and renewals of licenses to dispensaries; provided that the department shall consider the market conditions in each county in determining the license renewal fee amounts;
- (3) Criteria and procedures for the consideration and selection, based on merit, of applications for licensure of dispensaries; provided that the criteria shall include but not be limited to an applicant's:
  - (A) Ability to operate a business;
  - (B) Financial stability and access to financial resources; provided that applicants for medical marijuana dispensary licenses shall provide documentation that demonstrates control of not less than \$1,000,000 in the form of escrow accounts, letters of credit, surety bonds, bank statements, lines of credit or the equivalent to begin operating the dispensary;
  - (C) Ability to comply with the security requirements developed pursuant to paragraph (6);
  - (D) Capacity to meet the needs of qualifying patients;
  - (E) Ability to comply with criminal background check requirements developed pursuant to paragraph (8); and
  - (F) Ability to comply with inventory controls developed pursuant to paragraph (13);
- (4) Specific requirements regarding annual audits and reports required from each production center and dispensary licensed pursuant to this chapter;
- (5) Procedures for announced and unannounced inspections by the department or its agents of production centers and dispensaries licensed pursuant to this chapter; provided that inspections for license renewals shall be unannounced;
- (6) Security requirements for the operation of production centers and retail dispensing locations; provided that, at a minimum, the following shall be required:
  - (A) For production centers:
    - (i) Video monitoring and recording of the premises;
    - (ii) Fencing that surrounds the premises and that is sufficient to reasonably deter intruders and prevent anyone outside the premises from viewing any marijuana in any form;
    - (iii) An alarm system; and
    - (iv) Other reasonable security measures to deter or prevent intruders, as deemed necessary by the department;
  - (B) For retail dispensing locations:
    - (i) Presentation of a valid government-issued photo identification and a valid identification as issued by the department pursuant to section 329-123, by a qualifying patient or caregiver, upon entering the premises;

- (ii) Video monitoring and recording of the premises;
  - (iii) An alarm system;
  - (iv) Exterior lighting; and
  - (v) Other reasonable security measures as deemed necessary by the department;
- (7) Security requirements for the transportation of marijuana and manufactured marijuana products between production centers and retail dispensing locations;
- (8) Standards and criminal background checks to ensure the reputable and responsible character and fitness of all license applicants, licensees, employees, subcontractors and their employees, and prospective employees of medical marijuana dispensaries to operate a dispensary; provided that the standards, at a minimum, shall exclude from licensure or employment any person convicted of any felony;
- (9) The training and certification of operators and employees of production centers and dispensaries;
- (10) The types of manufactured marijuana products that dispensaries shall be authorized to manufacture and sell pursuant to sections 329D-9 and 329D-10;
- (11) Laboratory standards related to testing marijuana and manufactured marijuana products for content, contamination, and consistency;
- (12) The quantities of marijuana and manufactured marijuana products that a dispensary may sell or provide to a qualifying patient or primary caregiver; provided that no dispensary shall sell or provide to a qualifying patient or primary caregiver any combination of marijuana and manufactured products that:
  - (A) During a period of fifteen consecutive days, exceeds the equivalent of four ounces of marijuana; or
  - (B) During a period of thirty consecutive days, exceeds the equivalent of eight ounces of marijuana;
- (13) Dispensary and production center inventory controls to prevent the unauthorized diversion of marijuana or manufactured marijuana products or the distribution of marijuana or manufactured marijuana products to qualifying patients or primary caregivers in quantities that exceed limits established by this chapter; provided that the controls, at a minimum, shall include:
  - (A) A computer software tracking system as specified in section 329D-6(j) and (k); and
  - (B) Product packaging standards sufficient to allow law enforcement personnel to reasonably determine the contents of an unopened package;
- (14) Limitation to the size or format of signs placed outside a retail dispensing location or production center; provided that the signage limitations, at a minimum, shall comply with section 329D-6(o)(2) and shall not include the image of a cartoon character or other design intended to appeal to children;
- (15) The disposal or destruction of unwanted or unused marijuana and manufactured marijuana products;
- (16) The enforcement of the following prohibitions against:
  - (A) The sale or provision of marijuana or manufactured marijuana products to unauthorized persons;

- (B) The sale or provision of marijuana or manufactured marijuana products to qualifying patients or primary caregivers in quantities that exceed limits established by this chapter;
- (C) Any use or consumption of marijuana or manufactured marijuana products on the premises of a retail dispensing location or production center; and
- (D) The distribution of marijuana or manufactured marijuana products, for free, on the premises of a retail dispensing location or production center;
- (17) The establishment of a range of penalties for violations of this chapter or rule adopted thereto; and
- (18) A process to recognize and register patients who are authorized to purchase, possess, and use medical marijuana in another state, United States territory, or the District of Columbia as qualifying patients in this State; provided that this registration process may commence no sooner than January 1, 2018.”

SECTION 7. Section 329D-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each medical marijuana production center and dispensary licensed pursuant to this part shall:

- (1) Be subject to an annual announced inspection and unlimited unannounced inspections of its operations by the department; provided that inspections for license renewals shall be unannounced;
- (2) Submit reports on at least a quarterly basis, or as otherwise required, and in the format specified by the department; and
- (3) Annually cause an independent financial audit, at the dispensary licensee’s own expense, to be conducted of the dispensary, its production center, and retail dispensing locations and shall submit the audit’s findings to the department.”

SECTION 8. The department of health shall submit reports to the legislature no later than twenty days prior to the convening of the regular sessions of 2017, 2018, and 2019 on:

- (1) The annual aggregate numbers of announced and unannounced visits conducted by the department of health on the state-licensed or state-certified care facilities;
- (2) The annual aggregate numbers of unannounced inspections conducted by the department of health on the state-licensed or state-certified facilities as follow-up visits, visits to confirm corrections or deficiencies, or visits to investigate complaints or suspicions of abuse or neglect; and
- (3) The general outcomes and corrective actions taken because of the visits and investigations conducted by the department of health on the state-licensed or state-certified care facilities,

as specified in sections 2, 3, and 4 of this Act.

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect on July 1, 2016; provided that sections 2, 3, and 4 shall take effect on July 1, 2019.

(Approved July 1, 2016.)

**Note**

- 1. Edited pursuant to HRS §23G-16.5.

## ACT 185

S.B. NO. 2387

A Bill for an Act Relating to Physical Examinations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that school physical examinations are currently only conducted upon entry into the public school system, usually in kindergarten. The expansion of physical examination requirements for public school students will help reinforce a culture of wellness and preventative health care in the State. Furthermore, for children and adolescents who are obese, an additional physical examination visit provides an opportunity for the health care provider to assess the possible causes of obesity and develop a plan to support family-based lifestyle changes.

The purpose of this Act is to require the provision of written documentation of a physical examination performed within twelve months prior to attending seventh grade at a public school.

SECTION 2. Section 302A-1159, Hawaii Revised Statutes, is amended to read as follows:

**“§302A-1159 Physical examination required.** (a) No child shall attend any school for the first time in the State unless the child presents to the appropriate school official a report from a licensed physician, physician assistant, or advanced practice registered nurse of the results of a physical examination performed within [a year of] twelve months before the date of attendance at school. A child may attend school provisionally upon submitting written documentation from a licensed physician, physician assistant, advanced practice registered nurse, or other authorized representative of the department of health stating that the child is in the process of undergoing a physical examination. Further documentation showing that the required physical examination has been completed shall be submitted to the appropriate school official no later than three months after the child first attends the school.

(b) Beginning with the 2017-2018 school year, every child entering seventh grade shall present to the appropriate school official written documentation from a licensed physician, physician assistant, or advanced practice registered nurse showing completion of a physical examination performed within twelve months before the date of attendance. The department shall send notification of the physical examination requirement to the child's parents or guardians, upon the child's entrance into sixth grade, and post the requirement on the department's website. By December 31 of each year, the department shall provide to the department of health a list of students attending seventh grade who have not submitted appropriate written documentation, along with directory information as allowed under the federal Family Educational Rights and Privacy Act.”

SECTION 3. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

**“§321- Department of education student physical examination follow-up assistance and consultations.** (a) No later than the end of the seventh grade school year, the department of health shall contact the parents or guardians of students listed pursuant to section 302A-1159(b) and provide information to assist those persons in obtaining a physical examination for the student pursuant to section 302A-1159(b).



(b) Subject to the availability of funds, the department of health shall also provide follow-up notice to or consultations with the parents or guardians of the students contacted pursuant to subsection (a) on the benefits of a healthy lifestyle and preventative health care and the availability of health care coverage under the federal Patient Protection and Affordable Care Act or medicaid.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.  
(Approved July 1, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 186**

S.B. NO. 2560

A Bill for an Act Relating to Mental Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to address the mental health of homeless persons.

More specifically, this Act:

- (1) Requires the department of health to provide treatment and care for homeless individuals with serious and persistent mental health challenges that prevent them from obtaining housing and residing successfully in the community as a part of its comprehensive mental health system; and
- (2) Makes an appropriation of general funds to the department of health for the provision of treatment and care for homeless individuals with serious and persistent mental health challenges.

SECTION 2. Section 334-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Homeless individual” means an individual who is homeless as defined under section 346-361 and who has a serious and persistent mental illness or is otherwise eligible for treatment.”

SECTION 3. Section 334-2, Hawaii Revised Statutes, is amended to read as follows:

**“§334-2 Mental health system.** The department of health shall foster and coordinate a comprehensive mental health system utilizing public and private resources to reduce the incidence of mental or emotional disorders and substance abuse [and], to treat and rehabilitate the victims in the least restrictive and most therapeutic environment possible[-], and to provide treatment and care for homeless individuals with serious and persistent mental health challenges to enable them to reside in a permanent dwelling unit or homeless facility, as defined in section 346-361. The department shall administer such programs, services, and facilities as may be provided by the State to promote, protect, preserve, care for, and improve the mental health of the people.”

SECTION 4. Section 334-2.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The director may contract with any person for:
- (1) The development or operation of private in-state psychiatric facilities;
  - (2) The placement of patients in existing private or public psychiatric facilities; and
  - (3) The provision of:
    - (A) Secure psychiatric rehabilitation services;
    - (B) Crisis intervention and stabilization services;
    - (C) Intensive treatment and wraparound services;
    - (D) Diversion services;
    - (E) Special treatment facilities or therapeutic living programs as defined in section 334-1;
    - (F) Case management services;
    - (G) Housing services; ~~[and]~~
    - (H) Outreach services, with priority for outreach services intended to help homeless individuals with serious and persistent mental health challenges reside in homeless facilities, permanent dwelling units, or other facilities and avoid returning to homelessness; and
    - ~~[(H)]~~ (I) Other mental health treatment and rehabilitation services.”

SECTION 5. Section 334-103, Hawaii Revised Statutes, is amended to read as follows:

“§334-103 **Program elements.** The following shall be the program elements of the system. These shall be designed to provide, at every level, alternatives to institutional settings. Applicants applying to operate program elements shall show how each of these elements works with the current programs in the community the facility will serve. Applicants may apply for operation under the following program elements:

- (1) A short-term crisis residential alternative to hospitalization for individuals experiencing an acute episode or situational crisis. The program shall be available for admissions twenty-four hours a day, seven days a week. The primary focus of this element shall be on reduction of the crisis, stabilization, diagnostic evaluation, and assessment of the person's existing support system, including recommendations for referrals upon discharge. This service in the program shall be designed for persons who would otherwise be referred to an acute inpatient psychiatric unit;
- (2) A long-term residential treatment program for clients who would otherwise be living marginally in the community with little or no service support, and who would return many times to the hospital for treatment. It also will serve those who are referred to, and maintained in, state facilities or nursing homes, or private or public facilities or programs under contract with the director pursuant to section 334-2.5, because they require long-term, intensive support. This service shall be designed to provide a rehabilitation program for the so-called “chronic” patient who needs long-term support in order to develop independent living skills. This program goes beyond maintenance to provide an active rehabilitation focus for these individuals;

- (3) A transitional residential program designed for persons who are able to take part in programs in the general community, but who, without the support of counseling[;] as well as the therapeutic community, would be at risk of returning to the hospital[;] or becoming homeless by reason of serious and persistent mental health challenges. These programs may employ a variety of staffing patterns and are for persons who are expected to move toward a more independent living setting. The clients shall be expected to play a major role in the functioning of the household[;] and shall be encouraged to accept increasing levels of responsibility, both in the residential community[;] and in the community as a whole. Residents are required to be involved in daytime activities outside of the facility ~~[which]~~ that are relevant to their personal goals and conducive to their achieving more self-sufficiency; or
- (4) A semisupervised, independent, but structured living arrangement for persons who do not need the intensive support of the system elements of paragraph (1), (2), or (3), but who, without some support and structure, are at risk of requiring hospitalization[;] or becoming homeless by reason of serious and persistent mental health challenges. The small cooperative housing units shall function as independent households with direct linkages to staff support in case of emergencies, as well as for regular assessment and evaluation meetings. Individuals may use satellite housing as a transition to independent living[;] or may remain in this setting indefinitely in order to avoid the need for more intensive settings. This element is for persons who only need minimum professional or paraprofessional support in order to live in the community. These units should be as normative as the general living arrangements in the communities in which they are developed.”

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2016-2017 to provide treatment and care for homeless individuals with serious and persistent mental health challenges to enable them to reside in a permanent dwelling unit or homeless facility.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2016.

(Approved July 1, 2016.)

**ACT 187**

H.B. NO. 2363

A Bill for an Act Relating to Labor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-31, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Temporary total disability. Where a work injury causes total disability not determined to be permanent in character, the employer, for the duration of the disability, but not including the first three calendar days thereof, shall pay the injured employee a weekly benefit at the rate of sixty-six and two-thirds per cent of the employee’s average weekly wages, subject to the limitations on weekly benefit rates prescribed in subsection (a), or if the employee’s average weekly wages are less than the minimum weekly benefit rate prescribed in subsection (a), at the rate of one hundred per cent of the employee’s average weekly wages.

If an employee is unable to complete a regular daily work shift due to a work injury, the employee shall be deemed totally disabled for work for that day.

The employer shall pay temporary total disability benefits promptly as they accrue to the person entitled thereto without waiting for a decision from the director, unless this right is controverted by the employer in the employer’s initial report of industrial injury. The first payment of benefits shall become due and shall be paid no later than on the tenth day after the employer has been notified of the occurrence of the total disability, and thereafter the benefits due shall be paid weekly except as otherwise authorized pursuant to section 386-53.

The payment of these benefits shall only be terminated upon order of the director or if the employee is able to resume work. When the employer is of the opinion that temporary total disability benefits should be terminated because the injured employee is able to resume work, the employer shall notify the employee and the director in writing of an intent to terminate the benefits at least two weeks prior to the date when the last payment is to be made. The notice shall give the reason for stopping payment and shall inform the employee that the employee may make a written request to the director for a hearing if the employee disagrees with the employer. Upon receipt of the request from the employee, the director shall conduct a hearing as expeditiously as possible and render a prompt decision as specified in section 386-86. If the employee is unable to perform light work, if offered, temporary total disability benefits shall not be discontinued based solely on the inability to perform or continue to perform light work.

An employer or insurance carrier who fails to comply with this section shall pay not more than [~~\$2,500~~] \$5,000 into the special compensation fund upon the order of the director, in addition to other penalties prescribed in section 386-92.

- (1) If the director determines, based upon a review of medical records and reports and other relevant documentary evidence, that an injured employee’s medical condition may be stabilized and the employee is unable to return to the employee’s regular job, the director shall issue a preliminary decision regarding the [claimant’s] employee’s entitlement and limitation to benefits and rights under Hawaii’s workers’ compensation laws. The preliminary decision shall be sent to the affected employee and the employee’s designated representative and the employer and the employer’s designated representative and shall state that any party disagreeing with the director’s preliminary findings of medical stabilization and work limitations may request a hearing within twenty days of the date of the decision. The director shall be available to answer any questions during the twenty-day period from the injured employee and affected employer. If neither party requests a hearing challenging the director’s finding the determination shall be deemed accepted and binding upon the parties. In any case where a hearing is held on the preliminary findings, any person aggrieved by the director’s decision and order may appeal under section 386-87.

A preliminary decision of the director shall inform the injured employee and the employer of the following responsibilities, benefits, and limitations on vocational rehabilitation benefits that are designed to facilitate the injured employee's early return to suitable gainful employment:

- (A) That the injured employee may invoke the employee's rights under section 378-2, 378-32, or 386-142, or all of them, in the event of unlawful discrimination or other unlawful employment practice by the employer; and
  - (B) That after termination of temporary total disability benefits, an injured employee who resumes work may be entitled to permanent partial disability benefits, which if awarded, shall be paid regardless of the earnings or employment status of the disabled employee at the time.
- (2) If the rehabilitation unit determines that an injured employee is not a feasible candidate for rehabilitation and that the employee is unable to resume the employee's regular job, it shall promptly certify the same to the director. Soon thereafter, the director shall conduct a hearing to determine whether the injured employee remains temporarily totally disabled, or whether the employee is permanently partially disabled, or permanently totally disabled."

SECTION 2. Section 386-95, Hawaii Revised Statutes, is amended to read as follows:

**"§386-95 Reports of injuries, other reports, penalty.** Every employer shall keep a record of all injuries, fatal or otherwise, received by the employer's employees in the course of their employment, when known to the employer or brought to the employer's attention.

Within seven working days after the employer has knowledge of such injury causing absence from work for one day or more or requiring medical treatment beyond ordinary first aid, the employer shall make a report thereon to the director. The report shall set forth the name, address, and nature of the employer's business and the name, age, sex, wages, and occupation of the injured employee and shall state the date and hour of the accident, if the injury is produced thereby, the nature and cause of the injury, and such other information as the director may require.

By January 31 of each year, the employer shall file with the director a report with respect to each injury on which the employer is continuing to pay compensation, showing all amounts paid by the employer on account of the injury.

The reports required by this section shall be made on forms to be obtained from the director pursuant to section 386-71 and deposit of reports in the United States mail[;] or by electronic means as approved by the director, addressed to the director, within the time specified shall be deemed compliance with the requirements of this section.

When an injury results in immediate death, the employer shall within forty-eight hours notify personally or by telephone a representative of the department in the county where the injury occurred.

Within thirty days after final payment of compensation for an injury, the employer shall file a final report with the director showing the total payments made, the date of termination of temporary total disability, and such other information as the director may require.

Any employer who wilfully refuses or neglects to file any of the reports or give any notice required by this section shall be fined by the director not more than \$5,000.

Copies of all reports, other than those of fatal injuries, filed with the director as required by this section shall be sent to the injured employee by the employer."

SECTION 3. Section 386-96, Hawaii Revised Statutes, is amended to read as follows:

**"§386-96 Reports of physicians, surgeons, and hospitals.** (a) Any physician, surgeon, or hospital that has given any treatment or rendered any service to an injured employee shall make a report of the injury and treatment on forms prescribed by and to be obtained from the department as follows:

- (1) Within seven days after the date of first attendance or service rendered, an initial report shall be made to the department and to the employer of the injured employee in the manner prescribed by the department;
- (2) Interim reports to the same parties and in the same manner as prescribed in paragraph (1) shall be made at appropriate intervals to verify the claimant's current diagnosis and prognosis, that the information as to the nature of the examinations and treatments performed is complete, including the dates of those treatments and the results obtained within the current reporting period, the execution of all tests performed within the current reporting period and the results of the tests, whether the injured employee is improving, worsening, or if "medical stabilization" has been reached, the dates of disability, any work restrictions, and the return to work date. When an injured employee is returned to full-time, regular, light, part-time, or restricted work, the attending physician shall submit a report to the employer within seven calendar days indicating the date of release to work or medical stabilization; and
- (3) A final report to the same parties and in the same manner as prescribed in paragraph (1) shall be made within seven days after termination of treatment.

No physician, surgeon, or hospital that has given any treatment or rendered any service to an injured employee shall be required to provide any additional reports not otherwise mandated by this section.

(b) No claim under this chapter for medical treatment, surgical treatment, or hospital services and supplies, shall be valid and enforceable unless the reports are made as provided in this section, except that the director may excuse the failure to make the report within the prescribed period or a nonsubmission of the report when the director finds it in the best interest of justice to do so. If the director does not excuse the submission of:

- (1) An initial or interim report within the time prescribed in subsection (a)(1) and (2); or
- (2) A final report that is thirty days late or a nonsubmission, the delinquent physician shall be fined not more than ~~[\$250.]~~ \$500.

(c) The director shall furnish to the injured employee a copy of the final report of the attending physician or surgeon or, if more than one physician or surgeon should treat or examine the employee, a copy of the final report of each physician or surgeon.

(d) Within fifteen days after being requested to do so by the injured employee or the employee's duly authorized representative, the employer shall fur-

nish the employee or the employee's duly authorized representative with copies of all medical reports relating to the employee's injury that are in the possession of the employer. The copies shall be furnished at the expense of the employer. The employer shall allow the employee or the employee's duly authorized representative to inspect and copy transcripts of depositions of medical witnesses, relating to the employee's injury, in the possession of the employer. Any employer who fails to furnish medical reports or to allow inspection and copying of transcripts of depositions of medical witnesses, as required by this ~~[paragraph]~~ subsection, shall be fined in an amount not to exceed ~~[\$1,000.]~~ \$5,000.

(e) Deposit of the records required by subsection (a)(1) in the United States mail~~;~~ or by electronic means as approved by the director, addressed to the director and to the employer, within the time limit specified, shall be deemed in compliance with the requirements of this section."

SECTION 4. Section 386-123, Hawaii Revised Statutes, is amended to read as follows:

**"§386-123 Failure to give security for compensation; penalty; injunction.** If an employer fails to comply with section 386-121, the employer shall be liable for a penalty of not less than ~~[\$250]~~ \$500 or of ~~[\$10]~~ \$100 for each employee for every day during which such failure continues, whichever sum is greater, to be recovered in an action brought by the director in the name of the State, and the amount so collected shall be paid into the special compensation fund created by section 386-151. The director may, however, in the director's discretion, for good cause shown, remit all or any part of the penalty in excess of ~~[\$250,]~~ \$500; provided ~~that~~ the employer in default complies with section 386-121. With respect to such actions, the attorney general or any county attorney or public prosecutor shall prosecute the same if so requested by the director.

In addition, if any employer is in default under section 386-121 for a period of thirty days, the employer may be enjoined, by the circuit court of the circuit in which the employer's principal place of business is located, from carrying on the employer's business anywhere in the State so long as the default continues, such action for injunction to be prosecuted by the attorney general or any county attorney if so requested by the director."

SECTION 5. Section 386-129, Hawaii Revised Statutes, is amended to read as follows:

**"§386-129 Employees not to pay for insurance; penalty.** No agreement by an employee to pay any portion of the premium paid by the employee's employer, or to contribute to a benefit fund or department maintained by the employer, or to the cost of mutual or other insurance maintained for or carried for the purpose of securing compensation as herein required, shall be valid; and any employer who makes a deduction for that purpose from the wages or salary of any employee entitled to the benefits of this chapter shall be fined not more than ~~[\$2,500.]~~ \$5,000."

SECTION 6. Section 392-5, Hawaii Revised Statutes, is amended to read as follows:

**"§392-5 Excluded services.** "Employment" as defined in section 392-3 shall not include:

- (1) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, performed in any calendar

- quarter by an individual if the cash remuneration paid by the employer for such service is less than \$225;
- (2) Service not in the course of the employer's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employer to perform the service. An individual shall be deemed to be regularly employed to perform service not in the course of the employer's trade or business during a calendar quarter only if:
    - (A) On each of some twenty-four days during the quarter the individual performs the service for some portion of the day; or
    - (B) The individual was regularly employed, as determined under subparagraph (A), by the employer in the performance of the service during the preceding calendar quarter;
  - (3) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;
  - (4) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except:
    - (A) The service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States);
    - (B) The service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employer who, for some portion in each of twenty different calendar weeks in either the current or preceding calendar year, had in the employer's employ one or more persons performing the service, whether or not the weeks were consecutive and whether or not the same individuals performed the service in each week; and
    - (C) The service performed in connection with the catching or taking of salmon or halibut for commercial purposes;
  - (5) Service performed by an individual in the employ of the individual's son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of the child's father or mother;
  - (6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter;
  - (7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing that is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code;



- (8) Service with respect to which temporary disability compensation is payable for sickness under a temporary disability insurance system established by an act of Congress;
- (9) Service performed in any calendar quarter in the employ of any nonprofit organization exempt from income tax under section 501 of the Internal Revenue Code, if:
  - (A) The remuneration for such service is less than \$50;
  - (B) The service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university;
  - (C) The service is performed by a duly ordained, commissioned, or licensed minister or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of nonsecular duties required by the order; or
  - (D) The service is performed for a church by an employee who fails to meet the eligibility requirements of section 392-25;
- (10) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents, if:
  - (A) No part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual; and
  - (B) Eighty-five per cent or more of its income consists of amounts collected from members and amounts contributed by the employer of the members for the sole purpose of making such payments and meeting expenses;
- (11) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents or their designated beneficiaries, if:
  - (A) Admission to membership in the association is limited to individuals who are officers or employees of the United States government; and
  - (B) No part of the net earnings of the association inures (other than through such payments) to the benefit of any private shareholder or individual;
- (12) Service performed in the employ of a school, college, or university, not exempt from income tax under section 501 of the Internal Revenue Code, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college, or university;
- (13) Service performed in the employ of any instrumentality wholly owned by a foreign government, if:
  - (A) The service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and
  - (B) The United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;
- (14) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is

- regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;
- (15) Service performed by an individual for an employer as an insurance producer, if all such service performed by the individual for the employer is performed for remuneration solely by way of commission;
  - (16) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
  - (17) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employer during the period covered by the employer's duly approved election, are deemed to be performed entirely within the agency's state;
  - (18) Service performed by an individual who, pursuant to the federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation;
  - (19) Domestic in-home and community-based services for persons with developmental and intellectual disabilities under the medicaid home and community-based services program pursuant to title 42 Code of Federal Regulations sections 440.180 and 441.300, and title 42 Code of Federal Regulations, part 434, subpart A, as amended, or when provided through state funded medical assistance to individuals ineligible for medicaid, and identified as chore, personal assistance and habilitation, residential habilitation, supported employment, respite, and skilled nursing services, as the terms are defined by the department of human services, performed by an individual whose services are contracted by a recipient of social service payments and who voluntarily agrees in writing to be an independent contractor of the recipient of social service payments;
  - (20) Domestic services, which include attendant care, and day care services authorized by the department of human services under the Social Security Act, as amended, or when provided through state-funded medical assistance to individuals ineligible for medicaid, when performed by an individual in the employ of a recipient of social service payments. For the purposes of this paragraph only, a "recipient of social service payments" is a person who is an eligible recipient of social services such as attendant care or day care services;
  - (21) Service performed by a vacuum cleaner salesperson for an employing unit, if all such services performed by the individual for such employing unit are performed for remuneration solely by way of commission; [ø]
  - (22) Service performed by an individual for an employer as a real estate salesperson or as a real estate broker, if all the service performed by the individual for the employer is performed for remuneration solely by way of commission[-];
  - (23) Service performed by an individual for a corporation if the individual owns at least fifty per cent of the corporation; provided that

- no employer shall require an employee to incorporate as a condition of employment;
- (24) Service performed by a member of a limited liability company if the member is an individual and has a distributional interest, as defined in section 428-101, of not less than fifty per cent in the company; provided that no employer shall require an employee to form a limited liability company as a condition of employment;
- (25) Service performed by a partner of a partnership, as defined in section 425-101, if the partner is an individual; provided that no employer shall require an employee to become a partner or form a partnership as a condition of employment;
- (26) Service performed by a partner of a limited liability partnership if the partner is an individual and has a transferable interest as described in section 425-127 in the partnership of not less than fifty per cent; provided that no employer shall require an employee to form a limited liability partnership as a condition of employment;
- OR
- (27) Service performed by a sole proprietor.”

SECTION 7. Section 392-47, Hawaii Revised Statutes, is amended to read as follows:

**“§392-47 Failure to give security for payment of benefits; penalty; injunction.** If an employer fails to comply with section 392-41 the employer shall be subject to a penalty of not less than ~~[\$25]~~ \$500 or of ~~[\$1]~~ \$100 for each employee for every day during which such failure continues, whichever sum is greater, to be recovered in an action brought in the discretion of the director and the amount so collected shall be paid into the trust fund for disability benefits created by section 392-61. The director may, however, in the director’s discretion, for good cause shown, remit all or any part of the penalty in excess of ~~[\$25,]~~ \$500; provided that the employer in default ~~[forthwith]~~ complies with section 392-41.

Furthermore, if any employer is in default under section 392-41, for a period of thirty days, the employer may be enjoined by the circuit court of the circuit in which the employer’s principal place of business is located from carrying on the employer’s business any place in the State so long as the default continues, such action for injunction to be prosecuted by the attorney general or any county attorney if so requested by the director.”

SECTION 8. This Act does not affect the rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect on July 1, 2016.

(Approved July 1, 2016.)

## ACT 188

H.B. NO. 2715

A Bill for an Act Relating to Workers’ Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that although workers’ compensation premiums in Hawaii have dropped significantly since the reforms in the

mid-1990s and are now ranked twenty-seven from the top nationwide, legislation is introduced every year alleging unfair treatment of injured workers, including slow processes. In 2015, the legislature adopted House Concurrent Resolution No. 168, H.D. 2, S.D. 1, which required the department of labor and industrial relations to convene a working group to streamline the State's workers' compensation process, of which results are due to the 2017 legislature. Despite this action, a closed claims study is warranted to objectively review whether specific statutory changes are necessary. The last closed claims study done in Hawaii on workers' compensation was in 1993 by Tillinghast.

The purpose of this Act is to increase employee health and safety in the workplace and to provide timely and appropriate services for employees injured on the job in a supportive and non-confrontational environment by requiring the auditor to conduct a study on closed claims in the State's workers' compensation system.

SECTION 2. (a) The auditor shall contract with an actuarial firm that has experience conducting workers' compensation closed claims studies in the United States to perform a study of:

- (1) Closed claims in the private employment sector in the State; and
- (2) Closed claims involving state employees, including those employed by the department of human resources development, the department of education, and the University of Hawaii system.

(b) Of the total cost of the study, a portion equal to the appropriation provided for in section 3 of this Act shall be paid for by an assessment to the workers' compensation insurers, workers' compensation captive insurers, and workers' compensation self-insureds in the State to be determined according to market share of premiums or, in the case of workers' compensation self-insureds, using the current basis to determine special compensation fund assessments.

(c) The auditor shall require the study to be completed by November 30, 2017, and the study shall be submitted to the legislature no later than twenty days prior to the convening of the regular session of 2018.

(d) Prior to contracting with an actuarial firm to perform the study required by this Act, the auditor shall consult and confer with two members of the legislature, one member selected by the president of the senate and one selected by the speaker of the house of representatives. The two members shall ensure that the actuarial firm selected and parameters of the study are not biased and do not have an appearance of bias toward any of the numerous stakeholders in the workers' compensation system, including the department of labor and industrial relations, department of human resources development, insurers, attorneys representing employers and employees, mutual benefit societies, health maintenance organizations, and health care providers.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the auditor to contract with an actuarial firm to produce a study of closed claims in the State's workers' compensation system; provided that no moneys shall be released unless matched dollar-for-dollar by the fees assessed pursuant to section 2(b) of this Act.

The sum appropriated shall be expended by the auditor for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved July 1, 2016.)

A Bill for an Act Relating to the Office of Community Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$110,000 or so much thereof as may be necessary for fiscal year 2016-2017 for two full-time equivalent (2.0 FTE) positions as grant administrative support personnel in the department of labor and industrial relations' office of community services.

The sum appropriated shall be expended by the department of labor and industrial relations for the purposes of this Act.

SECTION 2. This Act shall take effect on July 1, 2016.

(Approved July 1, 2016.)

A Bill for an Act Relating to Labor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 371-11, Hawaii Revised Statutes, is amended to read as follows:

**“§371-11 Research and statistics; employers to keep certain records.** The department of labor and industrial relations:

- (1) Shall investigate and gather data regarding the wages, hours, and other conditions and practices of employment in the State, and may enter and inspect [such] places and [such] records [and make [such] transcriptions thereof], and investigate [such] facts, conditions, practices, or matters as are necessary or appropriate to carry into effect the duties imposed upon it under this chapter or under the rules of the department;
- (2) May investigate, collect, and publish [such] information relating to the cost of living in the State as it deems advisable; and
- (3) Shall collect, file, and publish [such] information relating to labor and industrial relations and shall perform [such] other duties as the director of labor and industrial relations shall by rule prescribe.

Every employer subject to this chapter or any rule or regulation of the department issued under this chapter shall make, keep, and preserve [such] records of the persons employed by the employer and of the wages, hours, and other conditions and practices of employment, maintained by the employer, and preserve [such] the records for [such] periods of time, as the department may by rule prescribe. In addition, every employer, regardless of whether they use a professional employer organization or a third-party administrator, shall keep a record of the former physical addresses and current physical address of the employer and the North American Industry Classification System code applicable to the employer.

The director or the director's authorized representative shall for the purpose of examination have access to and the right to copy

from ~~[such] the~~ records any matter or thing pertinent to this section, and every employer shall furnish to the director or the director's authorized representative on demand a copy under oath of ~~[such] the~~ material portion of ~~[such] the~~ records as the director or the director's authorized representative requires, and if the director so requires, upon forms prescribed or approved by the director[;].

- ~~[(4) The department shall collect, assemble, and furnish information regarding group life insurance plans, group medical, hospitalization, and health insurance plans, and pension and retirement plans, at the request of any employer or employee. Upon the request of any employer or employee, the department shall undertake a study of the feasibility of establishing any or all of such plans for such persons as may be designated by the employer or employee making the request. If the department determines that it will be feasible to establish such plan or plans for the persons so designated, it shall render all necessary assistance to the persons who will be included in such plan or plans, including but not limited to such matters as negotiating for and on behalf of such persons with insurance companies, and drafting of contracts and agreements. If the department determines that it will not be feasible to establish such plan or plans for the persons designated because of the small number or the diversity of occupations within the group or for any other reason, the department shall actively solicit the participation of as many other employers and employees within the State as may be necessary to form a group or groups for which it shall be feasible to establish the plan or plans contemplated by the employer or employee who made the original request, and shall furnish all necessary assistance in similar manner.]~~

The department shall adopt all necessary rules and regulations to carry out the purposes of this section."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 1, 2016.)

## ACT 191

S.B. NO. 2896

A Bill for an Act Relating to the Prevention of Unfair Labor Practices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 377-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any party in interest may file with the board a written complaint, on a form provided by the board, charging any person with having engaged in any specific unfair labor practice. The board shall serve or require the complainant to serve a copy of the complaint upon the person charged, hereinafter referred to as the respondent. If the board has reasonable cause to believe that the respondent is a member of or represented by a labor union, then service upon an officer of the union shall be deemed to be service upon the respondent. Service may be by delivery to the person, or by mail or ~~[by telegram.]~~ electronic service

through a company designated by the board, to the person's last known address. Any other person claiming interest in the dispute or controversy, as an employer, an employee or their representative, shall be made a party upon proof of the interest. The board may bring in additional parties by service of a copy of the complaint. Only one complaint shall issue against a person with respect to a single controversy, but any complaint may be amended in the discretion of the board at any time prior to the issuance of a final order based thereon. The respondent may file an answer to the original or amended complaint but the board may find to be true any allegation in the complaint in the event either no answer is filed or the answer neither specifically denies nor explains the allegation nor states that the respondent is without knowledge concerning the allegation. The respondent shall have the right to appear in person or otherwise give testimony at the place and time fixed in the notice of hearing. The hearing on the complaint shall be before either the board or a hearings officer of the board, as the board may determine.

The board shall fix a time for the hearing on the complaint, which shall be not less than ten nor more than forty days after the filing of the complaint or amendment thereof~~], and notice shall be given to each party by service on the party personally or by mailing a copy thereof to the party at the party's last known post office address at least ten days before the hearing]~~. Notwithstanding section 91-9.5, in any hearing conducted by the board, all parties shall be given written notice of the hearing by first class mail or by electronic service through a company designated by the board at least fifteen days before the scheduled date of the hearing. In case a party in interest is located without the State and has no known ~~[post-office]~~ address within the State~~;~~ and no known electronic mail address, a copy of the complaint and copies of all notices shall be filed in the office of the lieutenant governor and shall also be sent by ~~[registered]~~ first class mail to the last known ~~[post-office]~~ address of the party. Such filing and mailing shall constitute sufficient service with the same force and effect as if served upon a party located within the State. The hearing may be adjourned from time to time in the discretion of the board and hearings may be held at such places as the board shall designate.

In all proceedings under this chapter before the board, each member of the board may issue subpoenas and administer oaths. Depositions may be taken in the manner prescribed by law. No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to the subpoena on the ground that the testimony or evidence required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture under the laws of the State, but such person shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person may testify or produce evidence, documentary or otherwise, in such proceedings. Such person so testifying shall not be exempt, however, from prosecution and punishment for perjury committed in so testifying.

Any person who wilfully and unlawfully fails or neglects to appear or to testify or to produce books, papers, and records as required, shall, upon application to a circuit judge, be ordered to appear before the board, ~~[there to testify or produce evidence if so ordered,]~~ and failure to obey the order may be punished as a contempt of court.

Each witness who appears before the board by subpoena shall receive for the witness' attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid by the State in the same manner as other expenses are audited and paid, upon the presentation of properly verified vouchers approved by the board."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 1, 2016.)

## ACT 192

S.B. NO. 2723

A Bill for an Act Relating to Enforcement of Wage Laws.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 104-24, Hawaii Revised Statutes, is amended by amending subsections (a) through (c) to read as follows:

“(a) Where the department finds that a first violation of this chapter has been committed, the department shall assess a penalty equal to ~~[ten]~~ twenty-five per cent of the amount of back wages found due or ~~[\$25]~~ \$250 per offense, up to \$2,500, whichever is greater.

(b) Where the department finds that a second violation of this chapter has been committed, whether on the same ~~[contract]~~ or another~~;~~ contract, within two years of the first notification of violation, the department, after proper notice and opportunity for hearing, shall order the person or firm in violation to pay a penalty equal to the amount of back wages found due or ~~[\$100]~~ \$500 for each offense, up to \$5,000, whichever is greater.

(c) Where the department finds that a third violation of this chapter has been committed, whether on the same ~~[contract]~~ or another~~;~~ contract, within ~~[two]~~ three years of the second notification of violation, the department, after proper notice and opportunity for hearing, shall order the person or firm in violation:

- (1) To pay a penalty equal to two times the amount of back wages found due or ~~[\$200]~~ \$1,000 for each offense, up to \$10,000, whichever is greater; and
- (2) To be suspended from doing any new work on any public work of a governmental contracting agency for a period of three years except as provided in section 104-25(a)(2). “New work on any public work” includes any public works project in which the suspended person or firm has not begun work at the job site as of the date of the suspension order. The suspension shall be effective on the later of the twenty-first day after the notification of violation has been sent, or upon the issuance of a decision pursuant to section 104-23(c).”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved July 1, 2016.)



A Bill for an Act Relating to Broadband.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 151, Session Laws of Hawaii 2011, as amended by section 3 of Act 264, Session Laws of Hawaii 2013, is amended by amending section 2 to read as follows:

“SECTION 2. ~~[From]~~ Beginning January 1, 2012, ~~[to January 1, 2017,]~~ actions relating to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology, including the interconnection of telecommunications cables, shall be exempt from county permitting requirements, state permitting and approval requirements, which includes the requirements of chapters 171, 205A, and 343, Hawaii Revised Statutes, and public utilities commission rules under Hawaii Administrative Rules, chapter 6-73, that require existing installations to comply with new pole replacement standards at the time of any construction or alteration to the equipment or installation, except to the extent that such permitting or approval is required by federal law or is necessary to protect eligibility for federal funding, services, or other assistance; provided that the installation, improvement, construction, or development of infrastructure shall:

- (1) Be directly related to the improvement of existing telecommunications cables or the installation of new telecommunications cables:
  - (A) On existing or replacement utility poles and conduits; and
  - (B) Using existing infrastructure and facilities;
- (2) Take place within existing rights-of-way or public utility easements or use existing telecommunications infrastructure; and
- (3) Make no significant changes to the existing public rights-of-way, public utility easements, or telecommunications infrastructure.

An applicant shall comply with all applicable safety and engineering requirements relating to the installation, improvement, construction, or development of infrastructure relating to broadband service.

A person or entity taking any action under this section shall, at least thirty calendar days before the action is taken, provide notice to the director of commerce and consumer affairs by electronic posting in the form and on the site designated by the director for such posting on the designated central State of Hawaii Internet website; provided that notice need not be given by a public utility or government entity for an action relating to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology where the action taken is to provide access as the owner of the existing rights-of-way, utility easements, or telecommunications infrastructure.”

SECTION 2. Act 264, Session Laws of Hawaii 2013, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect on January 1, 2014~~, and shall be repealed on June 30, 2018~~; provided that this Act shall apply to permit applications filed with the State or county after December 31, 2013.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved July 1, 2016.)

A Bill for an Act Relating to Transportation.

*Be It Enacted by the Legislature of the State of Hawaii:*

## PART I

SECTION 1. The legislature finds that while federal, state, and county agencies maintain jurisdiction over, and are responsible for, the repair and maintenance of the majority of highways, streets, and roads throughout Hawaii, there are numerous roads throughout the State that are privately owned or whose ownership has been called into question. In many cases, these private roads or disputed roads were shown on a subdivision plat or are remnants of a road, or a small portion of a larger public road, whose ownership is disputed for various reasons. This has resulted in questions regarding who is responsible for the repair and maintenance of these roads, many of which are regularly used for vehicular traffic.

The legislature further finds that since these private roads are not owned by a governmental entity, or their ownership is being disputed, they often do not receive proper repair and maintenance. Although these roads are often used by, and are of benefit to the public, the public does not realize that the road is not owned by a governmental agency. This creates difficulties for members of the public and government agencies when individuals report repair or maintenance issues.

The legislature also finds that while counties have policies and procedures to assist owners with the repair and maintenance of private roads, these policies and procedures are only applicable when the county can determine or locate the actual owner of the road. Additionally, the owners of private roads may seek government assistance because they may not have the expertise, equipment, or ability to coordinate services necessary to address road ownership and maintenance issues.

Finally, the legislature finds that the cost to bring many of these private roads up to code is very high and should not be borne solely by the counties.

The purpose of this Act is to provide a means to resolve the situation by, among other things:

- (1) Establishing a temporary roads commission within the department of transportation to, among other things, review studies on disputes regarding private roads, provide an opinion on the ownership of certain private roads, advise the appropriate legislative body of the determination of ownership of the private road, and recommend action to the appropriate legislative body, including the initiation of condemnation proceedings as appropriate;
- (2) Expanding the State and counties' authority to condemn public roads;
- (3) Allowing private owners of roadways to petition the mayor of the county in which the roadway is located to begin condemnation proceedings if certain conditions are met;
- (4) Exempting roads meeting county construction standards at the time of construction and completion from having to meet county construction standards in place at the time of transfer to the county;
- (5) Exempting the State or county from requirements to maintain or improve roads taken by condemnation; and

- (6) Appropriating funds for road repair work, including resurfacing, flood mitigation, and installation of drainage infrastructure to certain roads.

## PART II

SECTION 2. (a) There is established a roads commission within the department of transportation for administrative purposes, which shall consist of the following members, or their designees:

- (1) The mayor of each county;
  - (2) A member of the state house of representatives appointed by the speaker of the house of representatives;
  - (3) A member of the state senate appointed by the president of the senate;
  - (4) The director of transportation;
  - (5) The chairperson of the board of land and natural resources;
  - (6) The director of a county transportation department, appointed by the Hawaii council of mayors and confirmed by the Hawaii state association of counties;
  - (7) The director of planning from a county, appointed by the Hawaii council of mayors and confirmed by the Hawaii state association of counties;
  - (8) One member of the public, with expertise in civil engineering, city planning, construction, easements and acquisitions, condemnation, real property title research, compliance with the Americans with Disabilities Act, or environmental regulations, appointed by the speaker of the house of representatives;
  - (9) One member of the public, with expertise in civil engineering, city planning, construction, easements and acquisitions, condemnation, real property title research, compliance with the Americans with Disabilities Act, or environmental regulations, appointed by the president of the senate; and
  - (10) Two members of the public, with expertise in civil engineering, city planning, construction, easements and acquisitions, condemnation, real property title research, compliance with the Americans with Disabilities Act, or environmental regulations, appointed by a majority of the members on the roads commission.
- (b) Any vacancy occurring in the membership of the commission shall be filled in the same manner as the original appointments.
- (c) The chair and vice chair of the commission shall be selected by a majority of the members of the commission.
- (d) A simple majority shall constitute a quorum whose affirmative vote shall be necessary for all actions of the commission.
- (e) Members of the commission shall serve without compensation but shall be reimbursed for necessary expenses, including travel expenses, incurred in the performance of their duties under this section.
- (f) The commission shall:
- (1) Review all previous studies on disputes regarding private roads;
  - (2) Provide an opinion about the ownership of five private roads that are remnants or whose ownership is in dispute; provided that two of these roads shall be roads that are not widely used by the general public; and
  - (3) Advise the appropriate legislative body of its determination of ownership of the five private roads, and recommend action to the ap-

propriate legislative body, including the initiation of condemnation proceedings as appropriate.

In fulfilling its responsibilities, the commission shall consult and seek advice from any department, agency, or organization the commission deems appropriate.

(g) The commission may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at its pleasure;
- (3) Adopt rules under chapter 91 necessary to effectuate this section;
- (4) Obtain federal or private funding for the upgrading, repair, and maintenance of private roads and distribute the funding to the appropriate governmental body;
- (5) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers under this section;
- (6) Carry out surveys, research, and investigations with respect to the ownership of private roads in the State; and
- (7) Direct, subpoena, or examine under oath all persons whose testimony may be required to determine ownership of a private road.

(h) The commission shall submit an interim report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2018, and a final report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2019.

(i) No member shall be made subject to chapter 84, Hawaii Revised Statutes, solely because of that member's participation as a member of the commission.

(j) The commission shall cease to exist on June 30, 2018.

### PART III

SECTION 3. Section 264-1, Hawaii Revised Statutes, is amended to read as follows:

**“§264-1 Public highways and trails.** (a) All roads, highways, alleys, streets, ways, lanes, bikeways, bridges, and all other real property highway related interests in the State, opened, laid out, subdivided, consolidated, and acquired and built by the government are declared to be public highways. Public highways are of two types:

- (1) State highways, which are those lands, interests, or other real property rights, as defined above, having an alignment or possession of a real property highway related interest as established by law, subdivided and acquired in accordance with policies and procedures of the department of transportation, separate and exempt from any county subdivision ordinances, and all those under the jurisdiction of the department of transportation; and
- (2) County highways, which are all other public highways.

(b) All trails, and other nonvehicular rights-of-way in the State declared to be public rights-of-ways by the Highways Act of 1892, or opened, laid out, or built by the government or otherwise created or vested as nonvehicular public rights-of-way at any time thereafter, or in the future, are declared to be public trails. A public trail is under the jurisdiction of the state board of land and natural resources unless it was created by or dedicated to a particular county, in which case it shall be under the jurisdiction of that county.

(c) All highways, roads, alleys, streets, ways, [lanes,] [trails,] bikeways, [and] bridges, and trails in the State, opened, laid out, or built by private parties and dedicated or ~~[surrendered]~~ condemned to the public use, are declared to be public highways or public trails as follows:

- (1) Dedication of public highways, roads, alleys, streets, ways, lanes, bikeways, bridges, or trails shall be by deed of conveyance naming the State as grantee in the case of a state highway, road, alley, street, way, lane, bikeway, bridge, or trail and naming the county as grantee in the case of a county highway, road, alley, street, way, lane, bikeway, bridge, or trail. The deed of conveyance shall be delivered to and accepted by the director of transportation in the case of a state highway, road, alley, street, way, lane, bikeway, or bridge, or the board of land and natural resources in the case of a state trail. In the case of a county highway, road, alley, street, way, lane, bikeway, bridge, or county trail, the deed shall be delivered to and accepted by the legislative body of a county[-]; provided that in every case where the highway, road, alley, street, way, lane, bikeway, bridge, or county trail is constructed and completed as required by any ordinance of the county or any rule, regulation, or resolution thereof having the effect of law, the legislative body of the county shall accept the dedication of the same without exercise of discretion; and
- (2) ~~[Surrender]~~ Condemnation of public highways, roads, alleys, streets, ways, lanes, bikeways, bridges, or trails [shall be deemed to have taken place if no act of ownership by the owner of the road, alley, street, bikeway, way, lane, trail, or bridge has been exercised for five years and when, in the case of a county highway, in addition thereto, the legislative body of the county has, thereafter, by a resolution, adopted the same as a county highway or trail-] initiated by the State or county pursuant to chapter 101, shall be by final order of condemnation by a court; provided that any private owner of a highway, road, alley, street, way, lane, bikeway, bridge, or trail may petition the mayor of the county in which the highway, road, alley, street, way, lane, bikeway, bridge, or trail is located to initiate condemnation proceedings if the highway, road, alley, street, way, lane, bikeway, bridge, or trail is part of a public road, ownership has not been exercised by limiting use or access, or the State or county has provided some form of maintenance to the highway, road, alley, street, way, lane, bikeway, bridge, or trail in the interest of the public; provided further that a private owner may only petition the mayor of a county after the dissolution of the roads commission established by Act , Session Laws of Hawaii 2016; provided further that in every case where the highway, road, alley, street, way, lane, bikeway, bridge, or trail is constructed and completed as required by any ordinance of the county or any rule, regulation, or resolution thereof having the effect of law at the time of construction and completion, the highway, road, alley, street, way, lane, bikeway, bridge, or trail shall be exempt from meeting the construction standards in place at the time of condemnation by the State or county.

~~[In every case where the road, alley, street, bikeway, way, lane, trail, bridge, or highway is constructed and completed as required by any ordinance of the county or any rule, regulation, or resolution thereof having the effect of law], the legislative body of the county shall accept the dedication or surrender of the same without exercise of discretion.]~~

(d) If a privately owned highway, road, alley, street, way, lane, bikeway, bridge, or trail is deemed to have been dedicated to or condemned by the State or county pursuant to subsection (c), the State or county shall be exempt for a period of three years from any state laws or rules adopted pursuant thereto that would require the State or county to perform construction, reconstruction, preservation, resurfacing, restoration, or rehabilitation upon it.

[(d)] (e) All county public highways and trails once established shall continue until vacated, closed, abandoned, or discontinued by a resolution of the legislative body of the county wherein the county highway or trail lies. All state trails once established shall continue until lawfully disposed of pursuant to the requirements of chapter 171.”

#### PART IV

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000 or so much thereof as may be necessary for fiscal year 2016-2017 for positions and other operating expenditures of the roads commission established under section 2 of this Act and for repair work, including flood mitigation and installation of drainage infrastructure, and resurfacing of the following:

- (1) Kalani Street on Oahu, from Puuhale Road to Kalihi Street;
- (2) Eighteenth Avenue on Oahu, from Harding Avenue to Kilauea Avenue; and
- (3) Kalakaua Avenue on Oahu, between Poni Moi Road and Coconut Avenue;

provided that the city and county of Honolulu shall take ownership of a road or parcel listed in paragraphs (1) through (3) of this section upon acceptance of funds by the city and county of Honolulu; provided further that the city and county of Honolulu shall have the discretion to accept or decline funds appropriated for each of the roads or parcels listed in paragraphs (1) through (3) of this section; provided further that the city and county of Honolulu shall not be required to take ownership of any road or parcel listed in paragraphs (1) through (3) of this section if the city and county of Honolulu declines funds for that particular road or parcel from the State.

The sum appropriated shall be expended by the department of transportation for the purposes of this Act.

#### PART V

SECTION 6.<sup>1</sup> Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7.<sup>1</sup> If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8.<sup>1</sup> This Act shall take effect on July 1, 2016; provided that section 2 shall be repealed on June 30, 2018.

(Approved July 1, 2016.)

#### Note

1. So in original.

A Bill for an Act Relating to Transportation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to address immediate deficits in the state highway fund. Projections from the department of transportation indicate that, beginning in fiscal year 2016-2017, revenue estimates for the state highway fund will fall well below planned expenditures, resulting in immediate deficits and the need to eliminate over \$200,000,000 in expenses over the next five years. To account for this shortfall, the State would be required to reduce highway special maintenance and capital improvement projects, which would also result in less timely responses to highway-related emergencies.

The primary causes for the decreased fund balance of the state highway fund are:

- (1) The lower rate of revenues generated from the fuel tax due to an increase in the number of fuel-efficient motor vehicles;
- (2) Increased costs to maintain existing state highways, operate the highways division of the department of transportation, and pay debt service on revenue bonds issued to construct state highways; and
- (3) Unanticipated costs arising from emergency repairs to and major restoration projects of the state highways.

The legislature finds that the fiscal health of the state highway fund must be addressed immediately. Delays in the construction, repair, and maintenance of state highways must be avoided to the extent possible. Further deterioration would require more costly re-construction in the future, including the need for expensive emergency repairs, exacerbating the shortfall of the state highway fund even further.

The legislature recognizes that, from 1981 to 1990, general excise tax revenues from fuel sales were diverted to the state highway fund. The legislature finds that re-enactment of the diversion of any portion of the general excise tax from the general fund is not in the public interest. General excise tax revenues are already eroded by numerous tax credits and exclusions. The general fund must also be preserved for other important public programs, especially those that do not have access to dedicated revenue sources.

The purpose of this Act is to provide an infusion of state general funds into the state highway fund while plans and immediate actions are taken to restore the state highway fund to solvency. The legislature very reluctantly makes this deposit. Subsidizing the state highway fund with state general funds is a drastic initiative contrary to recent past practices and sound budgetary policy. The legislature finds that the consequence of failing to provide the subsidy, however, would be more drastic: the decline of the condition and capacity of state highways, thus diminishing the general welfare and jeopardizing public safety.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$37,000,000 or so much thereof as may be necessary for fiscal year 2016-2017 for deposit into the state highway fund.

The sum appropriated shall be expended by the department of budget and finance for the purpose of this section.

SECTION 3. The general funds deposited into the state highway fund under section 2 shall be expended in accordance with appropriations in:

- (1) Act 119, Session Laws of Hawaii 2015, as may be amended by House Bill No. 1700<sup>1</sup> of the regular session of 2016; or

- (2) Any other act enacted during the 2016 regular session that appropriates the proceeds of the state highway fund.

SECTION 4. No later than November 1, 2018, the governor shall submit a report to the legislature on the sustainability of the state highway fund. The report shall include:

- (1) Actions already taken to sustain the state highway fund;
- (2) A plan, including various options, for the continued sustainability of the state highway fund;
- (3) Five-year financial projections for the state highway fund and an analysis of those projections; and
- (4) Proposed legislation, if any.

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved July 1, 2016.)

**Note**

1. HB 1700, HD1, SD1, CD1 became Act 124.

**ACT 196**

S.B. NO. 2618

A Bill for an Act Relating to Transportation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Unlike other states, Hawaii is not linked to other states by the federal interstate highway system or a network of interconnected state and local highways. Furthermore, for Hawaii, air transportation is often the only efficient means of travel to another state, as well as between Hawaii's major islands and between different harbors of an island. An interisland and intra-island ferry system can serve as an efficient alternative for transporting passengers, cargo, farm produce, and motor vehicles.

Washington State Ferries, which is part of the Washington State Department of Transportation, operates the largest ferry system in the United States. Washington State Ferries employs approximately eighteen hundred people and is Washington's most popular tourist attraction. Alaska also has a successful ferry system.

S.R. No. 116, S.D. 1, Regular Session of 2015, adopted on April 9, 2015, requests the department of transportation to study the feasibility of establishing an interisland ferry system, among other things, and report its findings and recommendations to the legislature prior to the 2016 regular session. However, the department may need additional funding and time to undertake and complete the study.

The purpose of this Act is to require the department of transportation to conduct a study on the feasibility of establishing an interisland and intra-island ferry system and to make an appropriation for expenses accordingly.

SECTION 2. The department of transportation shall conduct a study on the feasibility of establishing an interisland and intra-island ferry system similar to the ferry systems operated by Washington State and other jurisdictions, including proposed legislation. In conducting the study, the department shall:

- (1) Include a comparison of various jurisdictions with successful ferry systems including Washington and Alaska;
- (2) Emphasize compliance of the ferry system with the State's environmental protection laws, including chapter 343, Hawaii Revised Statutes;



- (3) Identify appropriate routes and harbors for the ferry system;
- (4) Consider the potential costs and revenues of the ferry system;
- (5) Include financing options for the ferry system, including the establishment of rates or fees to address operating costs;
- (6) Consider the particulars of the ferry system, including vessel design and speed, passenger capacity, cargo capacity, automobile capacity, and compatibility with harbor infrastructure;
- (7) Consider and determine the impacts the ferry system would have on traffic congestion on all islands served by the ferry; and
- (8) Consider the impacts the ferry system could have on the transmission of invasive species between islands and determine inspection requirements to limit the transmission of invasive species between islands.

SECTION 3. The department of transportation shall report its findings and recommendations, including proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2018.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the department of transportation to conduct a study on the feasibility of establishing an interisland and intra-island ferry system as described in this Act.

The sum appropriated shall be expended by the department of transportation for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved July 1, 2016.)

## ACT 197

S.B. NO. 2375

A Bill for an Act Relating to Transportation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new section to part X to be appropriately designated and to read as follows:

**“§291C- Speed limit for Daniel K. Inouye highway.** Notwithstanding any other law to the contrary, the speed limit for the Daniel K. Inouye highway shall be sixty miles-per-hour beginning at mile marker 12; provided that the speed limit shall be forty-five miles-per-hour or any other speed limit as determined pursuant to sections 291C-102, 291C-104, or 291C-105, beginning at the Pohakuloa training area and ending one-half mile east of the Mauna Kea county park entrance.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect on January 1, 2017.

(Approved July 1, 2016.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 198

S.B. NO. 2888

A Bill for an Act Relating to Forensic Mental Health Procedures.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that under section 704-404, Hawaii Revised Statutes, when a defendant's fitness to proceed is questioned, criminal proceedings stop, and the court orders a physical or mental examination of the defendant to determine the defendant's fitness to proceed and the defendant's capacity to be subject to penal responsibility for the alleged crime. Section 704-404(4), Hawaii Revised Statutes, requires the court to order a forensic examiner to conduct an evaluation and report on several elements including fitness to stand trial, a clinical diagnosis, and penal responsibility.

Penal responsibility is a measure of the capacity of the defendant to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law at the time of the alleged conduct. An evaluation of fitness includes an examination of the defendant's current cognitive capacity and state of mind, but does not always require a clinical diagnosis or an exhaustive review of the defendant's records. Evaluation of penal responsibility and clinical diagnosis are complex and time-consuming. The evaluations require a thorough record review and a comprehensive examination of the defendant's current cognitive status and the defendant's state of mind at various points in the past. Evaluations of fitness to proceed are used by the courts in each instance they are ordered, but evaluations of penal responsibility are rarely used because they are relevant only if the affirmative defense of lack of penal responsibility is asserted in criminal proceedings. Pairing the evaluations together is burdensome to the process, lengthens the time to complete the evaluation and report to the court, and generates a report that may not be used during adjudication.

An evaluation that combines determinations of fitness to proceed and penal responsibility into one evaluation raises ethical and legal concerns. Defendants who are unfit to proceed, by definition, may not have the capacity to consult with defense counsel to determine the impact of providing the examiner with information that could be potentially incriminating. The American Bar Association's Criminal Justice Mental Health Standards, Standard 7-4.4, recommends that an evaluation of a defendant's mental condition at the time of the alleged offense and capacity for penal responsibility should not be combined in an evaluation to determine fitness to stand trial unless requested by the defense or upon a showing of good cause.

Section 704-406, Hawaii Revised Statutes, does not provide a process for the reevaluation of a defendant who was found unfit to proceed but has since participated in fitness restoration services provided at either the Hawaii state hospital or in the community. Instead, courts have ordered new evaluations by a panel of three examiners for all defendants charged with felonies.

This Act establishes a procedure that requires evaluations for regained fitness to proceed by one examiner for all defendants except for defendants charged with murder in the first or second degrees, attempted murder in the first or second degrees, or class A felonies.

The purpose of this Act is to decrease the time defendants spend in state custody waiting for forensic mental health examinations and shorten the time to reach rulings on fitness to proceed and penal responsibility. This Act establishes evaluations for determining initial fitness to proceed and capacity for penal responsibility by one examiner for certain defendants, separates evaluation

for fitness to proceed and for penal responsibility, and codifies procedures for reevaluation of fitness to proceed.

SECTION 2. Chapter 704, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§704- Examination of defendant with respect to physical or mental disease, disorder, or defect excluding penal responsibility.** (1) Whenever the defendant has filed a notice of intention to rely on the defense of physical or mental disease, disorder, or defect excluding penal responsibility, or there is reason to believe that the physical or mental disease, disorder, or defect of the defendant will or has become an issue in the case, the court may order an examination as to the defendant's physical or mental disease, disorder, or defect at the time of the conduct alleged.

(2) The court shall appoint three qualified examiners in felony cases and one qualified examiner in nonfelony cases to examine and report upon the physical or mental disease, disorder, or defect of the defendant at the time of the conduct. In felony cases, the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third examiner may be a psychiatrist, licensed psychologist, or qualified physician. One of the three examiners shall be a psychiatrist or licensed psychologist designated by the director of health from within the department of health. In nonfelony cases, the court may appoint as examiners either a psychiatrist or a licensed psychologist. All examiners shall be appointed from a list of certified examiners as determined by the department of health. The court, in appropriate circumstances, may appoint an additional examiner or examiners. The court may direct that one or more qualified physicians or psychologists retained by the defendant be permitted to witness the examination. As used in this section, the term “licensed psychologist” includes psychologists exempted from licensure by section 465-3(a)(3) and “qualified physician” means a physician qualified by the court for the specific evaluation ordered.

(3) An examination performed under this section may employ any method that is accepted by the professions of medicine or psychology for the examination of those alleged to be affected by a physical or mental disease, disorder, or defect; provided that each examiner shall form and render diagnoses and opinions upon the physical and mental condition of the defendant independently from the other examiners, and the examiners, upon approval of the court, may secure the services of clinical psychologists and other medical or paramedical specialists to assist in the examination and diagnosis.

(4) For defendants charged with felonies, the examinations for fitness to proceed under section 704-404 and penal responsibility under this section shall be conducted separately unless a combined examination has been ordered by the court upon a request by the defendant or upon a showing of good cause to combine the examinations. When the examinations are separate, the examination for penal responsibility under this section shall not be ordered more than thirty days after a finding of fitness to proceed. The report of the examination for fitness to proceed shall be separate from the report of the examination for penal responsibility unless a combined examination has been ordered. For defendants charged with offenses other than felonies, a combined examination is permissible when ordered by the court.

(5) The court may order the examination to occur no sooner than one hundred twenty days of a finding of unfit to proceed under section 704-404 upon a showing of good cause.

(6) The report of the examination for penal responsibility shall include the following:

- (a) A description of the nature of the examination;
  - (b) A diagnosis of the physical or mental condition of the defendant;
  - (c) An opinion as to the extent, if any, to which the capacity of the defendant to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was impaired at the time of the conduct alleged;
  - (d) When directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind that is required to establish an element of the offense charged; and
  - (e) Where more than one examiner is appointed, a statement that the diagnosis and opinion rendered were arrived at independently of any other examiner, unless there is a showing to the court of a clear need for communication between or among the examiners for clarification. A description of the communication shall be included in the report. After all reports are submitted to the court, examiners may confer without restriction.
- (7) If the examination cannot be conducted by reason of the unwillingness of the defendant to participate in the examination, the report shall so state and shall include, if possible, an opinion as to whether the unwillingness of the defendant was the result of physical or mental disease, disorder, or defect.
- (8) Three copies of the report of the examination, including any supporting documents, shall be filed with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the defendant.
- (9) Any examiner shall be permitted to make a separate explanation reasonably serving to clarify the examiner's diagnosis or opinion.
- (10) The court shall obtain all existing relevant medical, mental health, social, police, and juvenile records, including those expunged, and other pertinent records in the custody of public agencies, notwithstanding any other statute, and make the records available for inspection by the examiners in hard copy or digital format. The court may order that the records so obtained be made available to the prosecuting attorney and counsel for the defendant in either format, subject to conditions the court determines appropriate; provided that juvenile records shall not be made available unless constitutionally required. No further disclosure of records shall be made except as permitted by law.
- (11) All public agencies in possession of relevant medical, mental health, social, police, and juvenile records, and any other pertinent records of a defendant ordered to be examined under this chapter, shall provide those records to the court, notwithstanding any other state statute.
- (12) The compensation of persons making or assisting in the examination, other than those retained by a nonindigent defendant, who are not undertaking the examination upon designation by the director of health as part of their normal duties as employees of the State or a county, shall be paid by the State.
- (13) The time during which completion of an examination pursuant to this section is pending shall be excluded in computing the time for trial commencement."

SECTION 3. Section 704-404, Hawaii Revised Statutes, is amended to read as follows:

**"§704-404 Examination of defendant with respect to physical or mental disease, disorder, or defect[.] excluding fitness to proceed.** (1) Whenever [the defendant has filed a notice of intention to rely on the defense of physical or

mental disease, disorder, or defect excluding responsibility, or] there is reason to doubt the defendant's fitness to proceed, [or reason to believe that the physical or mental disease, disorder, or defect of the defendant will or has become an issue in the case,] the court may immediately suspend all further proceedings in the prosecution. If a trial jury has been empanelled, it shall be discharged or retained at the discretion of the court. The discharge of the trial jury shall not be a bar to further prosecution.

(2) Upon suspension of further proceedings in the prosecution, the court shall appoint three qualified examiners in felony cases and one qualified examiner in nonfelony cases to examine and report upon the ~~[physical and mental condition of the defendant.]~~ defendant's fitness to proceed. In felony cases, the court shall appoint as examiners at least one psychiatrist and at least one licensed psychologist. The third ~~[member]~~ examiner may be a psychiatrist, licensed psychologist, or qualified physician. One of the three examiners shall be a psychiatrist or licensed psychologist designated by the director of health from within the department of health. In nonfelony cases, the court may appoint as examiners either a psychiatrist or a licensed psychologist. All examiners shall be appointed from a list of certified examiners as determined by the department of health. The court, in appropriate circumstances, may appoint an additional examiner or examiners. The examination may be conducted on an out-patient basis or, in the court's discretion, when necessary the court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period not exceeding thirty days, or such longer period as the court determines to be necessary for the purpose. The court may direct that one or more qualified physicians or psychologists retained by the defendant be permitted to witness the examination. As used in this section, the term "licensed psychologist" includes psychologists exempted from licensure by section 465-3(a)(3)[-] and "qualified physician" means a physician qualified by the court for the specific evaluation ordered.

(3) An examination performed under this section may employ any method that is accepted by the professions of medicine or psychology for the examination of those alleged to be affected by a physical or mental disease, disorder, or defect; provided that each examiner shall form and render ~~[diagnoses and opinions]~~ an opinion upon the ~~[physical and mental condition of the defendant]~~ defendant's fitness to proceed independently from the other examiners, and the examiners, upon approval of the court, may secure the services of clinical psychologists and other medical or paramedical specialists to assist in the examination ~~[and diagnosis]~~.

(4) For defendants charged with felonies, the examinations for fitness to proceed under this section and penal responsibility under section 704- shall be conducted separately unless a combined examination has been ordered by the court upon a request by the defendant or upon a showing of good cause to combine the examinations. The report of the examination for fitness to proceed shall be separate from the report of the examination for penal responsibility unless a combined examination has been ordered. For defendants charged with offenses other than felonies, a combined examination is permissible when ordered by the court.

~~[(4)]~~ (5) The report of the examination for fitness to proceed shall include the following:

- (a) A description of the nature of the examination;
- ~~[(b)]~~ A diagnosis of the physical or mental condition of the defendant;
- ~~(e)]~~ (b) An opinion as to the defendant's capacity to understand the proceedings against the defendant and to assist in the defendant's own defense;

- [(d)] ~~An opinion as to the extent, if any, to which the capacity of the defendant to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was impaired at the time of the conduct alleged;~~
- (e) ~~When directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind that is required to establish an element of the offense charged; and~~
- (f) ~~Where more than one examiner is appointed, a statement that the diagnosis and opinion rendered were arrived at independently of any other examiner, unless there is a showing to the court of a clear need for communication between or among the examiners for clarification. A description of the communication shall be included in the report. After all reports are submitted to the court, examiners may confer without restriction.]~~
- (c) An assessment of the risk of danger to the defendant or to the person or property of others for consideration and determination of the defendant's release on conditions; and
- (d) Where more than one examiner is appointed, a statement that the opinion rendered was arrived at independently of any other examiner, unless there is a showing to the court of a clear need for communication between or among the examiners for clarification. A description of the communication shall be included in the report. After all reports are submitted to the court, examiners may confer without restriction.

[(5)] (6) If the examination cannot be conducted by reason of the unwillingness of the defendant to participate ~~[therein,] in the examination,~~ the report shall so state and shall include, if possible, an opinion as to whether ~~[such] the~~ unwillingness of the defendant was the result of physical or mental disease, disorder, or defect.

[(6)] (7) Three copies of the report of the examination, including any supporting documents, shall be filed with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the defendant.

[(7)] (8) Any examiner shall be permitted to make a separate explanation reasonably serving to clarify the examiner's ~~[diagnosis or]~~ opinion.

[(8)] (9) The court shall obtain all existing relevant medical, mental health, social, police, and juvenile records, including those expunged, and other pertinent records in the custody of public agencies, notwithstanding any other ~~[statutes,] statute,~~ and make ~~[such] the~~ records available for inspection by the examiners~~[-]~~ in hard copy or digital format. The court may order that the records so obtained be made available to the prosecuting attorney and counsel for the defendant in either format, subject to conditions the court determines appropriate; provided that juvenile records shall not be made available unless constitutionally required. No further disclosure of records shall be made except as permitted by law. If, pursuant to this section, the court orders the defendant committed to a hospital or other suitable facility under the control of the director of health, then the county police departments shall provide to the director of health and the defendant copies of all police reports from cases filed against the defendant ~~[which] that~~ have been adjudicated by the acceptance of a plea of guilty or no contest, a finding of guilt, acquittal, acquittal pursuant to section 704-400, or by the entry of plea of guilty or no contest made pursuant to chapter 853, so long as the disclosure to the director of health and the defendant does not frustrate

a legitimate function of the county police departments, with the exception of expunged records, records of or pertaining to any adjudication or disposition rendered in the case of a juvenile, or records containing data from the United States National Crime Information Center. The county police departments shall segregate or sanitize from the police reports information that would result in the ~~[likelihood]~~ likely or actual identification of individuals who furnished information in connection with its investigation, or who were of investigatory interest. ~~[Records shall not be re-disclosed except to the extent permitted by law.] No further disclosure of records shall be made except as provided by law.~~

~~[(9)]~~ (10) All public agencies in possession of relevant medical, mental health, social, police, and juvenile records, and any other pertinent records of a defendant ordered to be examined under this chapter, shall provide those records to the court, notwithstanding any other state statute.

~~[(40)]~~ (11) The compensation of persons making or assisting in the examination, other than those retained by ~~[the]~~ a nonindigent defendant, who are not undertaking the examination upon designation by the director of health as part of their normal duties as employees of the State or a county, shall be paid by the State."

SECTION 4. Section 704-406, Hawaii Revised Statutes, is amended to read as follows:

**"§704-406 Effect of finding of unfitness to proceed[-] and regained fitness to proceed.** (1) If the court determines that the defendant lacks fitness to proceed, the proceeding against the defendant shall be suspended, except as provided in section 704-407, and the court shall commit the defendant to the custody of the director of health to be placed in an appropriate institution for detention, care, and treatment; provided that the commitment shall be limited in certain cases as follows:

- (a) When the defendant is charged with a petty misdemeanor not involving violence or attempted violence, the commitment shall be limited to no longer than sixty days from the date the court determines the defendant lacks fitness to proceed; and
- (b) When the defendant is charged with a misdemeanor not involving violence or attempted violence, the commitment shall be limited to no longer than one hundred twenty days from the date the court determines the defendant lacks fitness to proceed.

If the court is satisfied that the defendant may be released on conditions without danger to the defendant or to ~~[the person]~~ another or risk of substantial danger to property of others, the court shall order the defendant's release, which shall continue at the discretion of the court, on conditions the court determines necessary; provided that the release on conditions of a defendant charged with a petty misdemeanor not involving violence or attempted violence shall continue for no longer than sixty days, and the release on conditions of a defendant charged with a misdemeanor not involving violence or attempted violence shall continue for no longer than one hundred twenty days. A copy of the report filed pursuant to section 704-404 shall be attached to the order of commitment or order of release on conditions. When the defendant is committed to the custody of the director of health for detention, care, and treatment, the county police departments shall provide to the director of health and the defendant copies of all police reports from cases filed against the defendant that have been adjudicated by the acceptance of a plea of guilty or nolo contendere, a finding of guilt, acquittal, acquittal pursuant to section 704-400, or by the entry of a plea of guilty

or nolo contendere made pursuant to chapter 853, so long as the disclosure to the director of health and the defendant does not frustrate a legitimate function of the county police departments; provided that expunged records, records of or pertaining to any adjudication or disposition rendered in the case of a juvenile, or records containing data from the United States National Crime Information Center shall not be provided. The county police departments shall segregate or sanitize from the police reports information that would result in the [likely] or actual identification of individuals who furnished information in connection with the investigation or who were of investigatory interest. ~~[Records shall not be re-disclosed except to the extent permitted by law.]~~ No further disclosure of records shall be made except as provided by law.

(2) When the defendant is released on conditions after a finding of unfitness to proceed, the department of health shall establish and monitor a fitness restoration program consistent with conditions set by the court order of release, and shall inform the prosecuting attorney of the county that charged the defendant of the program and report the defendant's compliance therewith.

~~[(3)]~~ When the court, on its own motion or upon the application of the director of health, the prosecuting attorney, or the defendant, ~~[determines, after a hearing if a hearing is requested,]~~ has reason to believe that the defendant has regained fitness to proceed, [the penal proceeding shall be resumed,] for a defendant charged with the offense of murder in the first or second degree, attempted murder in the first or second degree, or a class A felony, the court shall appoint three qualified examiners and may appoint in all other cases one qualified examiner, to examine and report upon the physical and mental condition of the defendant. In cases in which the defendant has been charged with murder in the first or second degree, attempted murder in the first or second degree, or a class A felony, the court shall appoint as examiners at least one psychiatrist and at least one licensed psychologist. The third examiner may be a psychiatrist, licensed psychologist, or qualified physician. One of the three examiners shall be a psychiatrist or licensed psychologist designated by the director of health from within the department of health. In all other cases, the one qualified examiner shall be a psychiatrist or licensed psychologist designated by the director of health from within the department of health. The court, in appropriate circumstances, may appoint an additional examiner or examiners. All examiners shall be appointed from a list of certified examiners as determined by the department of health. After a hearing, if a hearing is requested, if the court determines that the defendant has regained fitness to proceed, the penal proceeding shall be resumed and the defendant shall no longer be committed to the custody of the director of health. In cases where a defendant is charged with the offense of murder in the first or second degree, attempted murder in the first or second degree, or a class A felony, upon the request of the prosecuting attorney or the defendant, and in consideration of information provided by the defendant's clinical team, the court may order that the defendant remain in the custody of the director of health, for good cause shown, subject to bail or until a judgment on the verdict or a finding of guilt after a plea of guilty or nolo contendere. Thereafter, the court may consider a request from the director of health to rescind its order maintaining the defendant in the director's custody, for good cause shown. As used in this section, the term "qualified physician" means a physician qualified by the court for the specific evaluation ordered. If, however, the court is of the view that so much time has elapsed since the commitment or release on conditions of the defendant that it would be unjust to resume the proceeding, the court may dismiss the charge and:

- (a) Order the defendant to be discharged;
- (b) Subject to the law governing the involuntary civil commitment of



persons affected by physical or mental disease, disorder, or defect, order the defendant to be committed to the custody of the director of health to be placed in an appropriate institution for detention, care, and treatment; or

- (c) Subject to the law governing involuntary outpatient treatment, order the defendant to be released on conditions the court determines necessary.

(4) An examination for regained fitness to proceed performed under this section may employ any method that is accepted by the professions of medicine or psychology for the examination of those alleged to be affected by a physical or mental disease, disorder, or defect, and shall include a review of records where the defendant, while under the custody of the director of health, was placed; provided that each examiner shall form and render an opinion on the defendant's regained fitness to proceed independently from the other examiners and the examiners, upon approval of the court, may secure the services of clinical psychologists and other medical or paramedical specialists to assist in the examination.

(5) The report of the examination for regained fitness to proceed shall include the following:

- (a) A description of the nature of the examination;
- (b) An opinion as to the defendant's capacity to understand the proceedings against the defendant and to assist in the defendant's own defense; and
- (c) Where more than one examiner is appointed, a statement that the opinion rendered was arrived at independently of any other examiner, unless there is a showing to the court of a clear need for communication between or among the examiners for clarification. A description of the communication shall be included in the report. After all reports are submitted to the court, examiners may confer without restriction.

(6) All other procedures as set out in section 704-404(6) through (11) shall be followed for the completion of the report of the examination for regained fitness to proceed performed under this section.

~~[(4)]~~ (7) If a defendant committed to the custody of the director of health for a limited period pursuant to subsection (1) is not found fit to proceed prior to the expiration of the commitment, the charge for which the defendant was committed for a limited period shall be dismissed. Upon dismissal of the charge, the defendant shall be released from custody unless the defendant is subject to prosecution for other charges, in which case, unless the defendant is subject to the law governing involuntary civil commitment, the court shall order the defendant's commitment to the custody of the director of health to be placed in an appropriate institution for detention, care, and treatment. Within a reasonable time following any other commitment under subsection (1), the director of health shall report to the court on whether the defendant presents a substantial likelihood of becoming fit to proceed in the future. The court, in addition, may appoint a panel of three qualified examiners in felony cases or one qualified examiner in nonfelony cases to make a report. If, following a report, the court determines that the defendant probably will remain unfit to proceed, the court may dismiss the charge and:

- (a) Release the defendant; or
- (b) Subject to the law governing involuntary civil commitment, order the defendant to be committed to the custody of the director of

health to be placed in an appropriate institution for detention, care, and treatment.

~~[(5)]~~ (8) If a defendant released on conditions for a limited period pursuant to subsection (1) is not found fit to proceed prior to the expiration of the release on conditions order, the charge for which the defendant was released on conditions for a limited period shall be dismissed. Upon dismissal of the charge, the defendant shall be discharged from the release on conditions unless the defendant is subject to prosecution for other charges or subject to the law governing involuntary civil commitment, in which case the court shall order the defendant's commitment to the custody of the director of health to be placed in an appropriate institution for detention, care, and treatment. Within a reasonable time following any other release on conditions under subsection (1), the court shall appoint a panel of three qualified examiners in felony cases or one qualified examiner in nonfelony cases to report to the court on whether the defendant presents a substantial likelihood of becoming fit to proceed in the future. If, following the report, the court determines that the defendant probably will remain unfit to proceed, the court may dismiss the charge and:

- (a) Release the defendant; or
- (b) Subject to the law governing involuntary civil commitment, order the defendant to be committed to the custody of the director of health to be placed in an appropriate institution for detention, care, and treatment."

SECTION 5. Section 704-411, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

"(3) When ordering a hearing pursuant to subsection (2):

- (a) In nonfelony cases, the court shall appoint a qualified examiner to examine and report upon the physical and mental condition of the defendant. The court may appoint either a psychiatrist or a licensed psychologist. The examiner may be designated by the director of health from within the department of health. The examiner shall be appointed from a list of certified examiners as determined by the department of health. The court, in appropriate circumstances, may appoint an additional examiner or examiners; and
- (b) In felony cases, the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case, the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third member may be a psychiatrist, a licensed psychologist, or a qualified physician. One of the three shall be a psychiatrist or licensed psychologist designated by the director of health from within the department of health. The three examiners shall be appointed from a list of certified examiners as determined by the department of health.

To facilitate the examination and the proceedings thereon, the court may cause the defendant, if not then confined, to be committed to a hospital or other suitable facility for the purpose of examination for a period not exceeding thirty days or ~~[such]~~ a longer period as the court determines to be necessary for the purpose upon written findings for good cause shown. The court may direct that qualified physicians or psychologists retained by the defendant be permitted to witness the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in ~~[accord]~~ accordance with section 704-404(3), ~~[(4)(a)]~~ (5)(a) and (b), ~~[(6), (7), (8), and (9)]~~ (7), (8), (9),

(10), and (11). As used in this section, the term “licensed psychologist” includes psychologists exempted from licensure by section 465-3(a)(3)[-] and “qualified physician” means a physician qualified by the court for the specific evaluation ordered.”

SECTION 6. Section 704-414, Hawaii Revised Statutes, is amended to read as follows:

**“§704-414 Procedure upon application for discharge, conditional release, or modification of conditions of release.** Upon filing of an application pursuant to section 704-412 for discharge or conditional release, or upon the filing of an application pursuant to section 704-413 for discharge or for modification of conditions of release, the court shall appoint three qualified examiners in felony cases and one qualified examiner in nonfelony cases to examine and report upon the physical and mental condition of the defendant. In felony cases the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third member may be a psychiatrist, a licensed psychologist, or a qualified physician. One of the three shall be a psychiatrist or licensed psychologist designated by the director of health from within the department of health. The examiners shall be appointed from a list of certified examiners as determined by the department of health. To facilitate the examination and the proceedings thereon, the court may cause the defendant, if not then confined, to be committed to a hospital or other suitable facility for the purpose of the examination and may direct that qualified physicians or psychologists retained by the defendant be permitted to witness the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in ~~accord~~ accordance with section 704-404(3), [(4)(a)] (5)(a) and (b), ~~[(6), (7), (8), and (9)]~~ (7), (8), (9), (10), and (11). As used in this section, the term “licensed psychologist” includes psychologists exempted from licensure by section 465-3(a)(3)[-] and “qualified physician” means a physician qualified by the court for the specific evaluation ordered.”

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect upon its approval.

(Approved July 1, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 199**

H.B. NO. 1578

A Bill for an Act Relating to Theft.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

**“§708- Theft of urn.** (1) A person commits the offense of theft of urn if the person:

- (a) Obtains an urn through any means described in section 708-830; or
- (b) Violates section 445-233 in regard to an urn.
- (2) For the purposes of this section, "urn" means a container that is or has been used to hold human ashes.
- (3) Theft of urn is a class C felony."

SECTION 2. Section 445-231, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Urn" means a container that is or has been used to hold human ashes."

SECTION 3. Section 445-233, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:  
 "(b) If the scrap presented for purchase is copper, ~~[or]~~ a beer keg, or an urn, in whole or in part, the seller shall provide a copy of a receipt that describes, with particularity:
  - (1) The exact item that is being offered for sale;
  - (2) Who issued the receipt;
  - (3) The date of sale of the item prior to the item's being offered to the scrap dealer; and
  - (4) The price, if any, of the item when obtained by the seller."
2. By amending subsections (d), (e), and (f) to read:  
 "(d) If the seller does not provide a copy of the receipt or the notarized declaration as required by subsections (b) and (c), the scrap dealer shall not purchase the copper, ~~[or]~~ beer keg, or urn, in whole or in part, and shall report the attempted sale to the police.  
 (e) If the scrap dealer purchases any copper ~~[or]~~, beer keg, or urn, in whole or in part, the scrap dealer shall take a photograph or photographs of all of the copper ~~[or any]~~, beer keg, or urn, offered for sale.  
 (f) The scrap dealer shall also require the seller to verify the seller's identity by presenting a valid photo identification card or license issued by a federal or state government agency authorized to issue valid identification. If the scrap being offered for sale is copper, ~~[or]~~ a beer keg, or an urn, in whole or in part, the scrap dealer shall:
  - (1) Take a photograph of the seller; or
  - (2) Make a photocopy of the identification card or license of the seller."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 2016.

(Approved July 5, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Mopeds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 249, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§249- Number plates for mopeds; registration.** (a) The director of finance shall cause to be produced number plates and tags or emblems for the registration of mopeds operated in the State.

(b) The director of finance shall number and register the moped in the owner's name in a permanent record or book to be kept by the director of finance for this purpose, and shall furnish the owner thereof with a receipt showing upon its face the license number issued for the moped. The registration of mopeds shall occur on a staggered basis as agreed upon by the counties' director of finance. The registration fee shall be \$27 per year. The director of finance shall also furnish the owner, upon the original registration of the moped, one plate with the registration number marked thereon. Upon the payment of a registration fee for each year, a tag or emblem bearing a serial number and the month and year of expiration shall be provided to the owner. Transfer of current number plates, tag, or emblem, except as authorized by this chapter, is punishable by a fine of not more than \$50 for each offense.

(c) Upon an original registration the director of finance shall fix, and shall charge to the owner, a fee equal to the cost of the number plate and tag or emblem plus the administrative cost of furnishing the plate and tag or emblem and effecting the registration. Upon the issuance of a new series of number plates, the director of finance shall charge the owner a fee equal to the costs of the number plate plus the administrative cost of furnishing the plate. Upon issuing a tag or emblem, the director of finance shall charge the owner a fee of 50 cents. The owner shall securely fasten the number plate on the rear of the moped at a location provided by the manufacturer or in the absence of such a location upon the bumper of the moped and in conformance with section 291-31, in such a manner as to prevent the plate from swinging. The number plate shall at all times be displayed entirely unobscured and be kept reasonably clean.

(d) Upon the issuance of the tag or emblem, the owner shall affix the tag or emblem to the top right portion of the rear number plate."

SECTION 2. Section 249-14, Hawaii Revised Statutes, is amended to read as follows:

**"§249-14 Bicycle [~~and moped~~] fee.** (a) Bicycles having two tandem wheels that are twenty inches or more in diameter [~~and all mopeds~~] are required to be registered and shall be subject to a permanent registration fee of \$15, to be paid by the owners thereof to the director of finance.

(b) An owner of a bicycle having two tandem wheels that are less than twenty inches in diameter is not required to register such bicycle, but may do so to facilitate the return of recovered stolen bicycles by payment of the registration fee. The fee collected shall not be refunded or prorated. Upon receipt of the fee, the director of finance shall number and register each bicycle [~~and moped~~] for which the fee is paid, in the owner's name and furnish the owner with a metallic tag or decal for each bicycle [~~or moped~~] which shall be attached to the bicycle or moped. On bicycles the decal shall be affixed to the upright post attached to the

sprocket facing in the forward direction. ~~[On mopeds the decal shall be affixed to the lower portion of the rear fender facing rearward.]~~ Upon initial registration by an owner or transferee, the director of finance shall require proof of ownership and require the owner to furnish verification of the serial number and description contained in the proof of ownership and application for registration. The metallic tags or decals shall be in a form as the director of finance shall from time to time prescribe. It shall be the duty of the director of finance of each county to purchase a sufficient number of these tags or decals.

(c) All fees collected under this section shall be deposited into the bike-way fund and shall be expended in the county in which the fees are collected as provided in section 249-17.5."

SECTION 3. Section 249-14.5, Hawaii Revised Statutes, is amended to read as follows:

**"§249-14.5 New bicycles and mopeds.** All new bicycles and mopeds, otherwise requiring the payment of fees under section 249-14, held in stock for purposes of sale shall be exempt from the fee. At the time of first sale, the dealer selling the new bicycle or moped shall:

- (1) Require the buyer to complete a license application form furnished by the director of finance;
- (2) Issue a copy of the completed form to the buyer; and
- (3) Transmit a copy of the completed form to the director of finance with the required fees which the dealer has collected from the buyer.

Upon receipt of the fee and the completed license application form, the director of finance shall mail a license plate and tags or emblems for mopeds, or tag or decal for bicycles, and certificate of registration to the registered owner. Until the license plate and tags or emblems for mopeds, or<sup>1</sup> tag or decal for bicycles, is received, the bicycle or moped owner shall keep a copy of the completed application form upon the owner's person when riding the bicycle or moped on a public street."

SECTION 4. Section 249-15, Hawaii Revised Statutes, is amended to read as follows:

**"§249-15 Seizure and sale.** The directors of finance, any person authoritatively acting on behalf of the director of finance, or any member of a police force of the several counties of the State may seize any bicycle or moped liable for the payment of the required fees or which has no tag or decal affixed as required by section 249-14 for bicycles, or license plate and tag or emblem affixed as required by section 249- for mopeds, and may hold the bicycle or moped for a period of ten days, during which time it shall be subject to redemption by its owner on payment of the fee due and a penalty of ~~[\$1]~~ \$25. All bicycles and mopeds not so redeemed shall be sold by the county chief of police or director of finance or their authorized representative, at public auction after first giving five days public notice of the time and place of sale in the county where the sale is to be held. Sale shall be made for the best price obtainable, which amount shall be forthwith paid over to the director of finance, accompanied by a statement containing a description of the bicycles or mopeds, their serial number, makes, and any other marks of identification. The director of finance, after deducting from the amount so received the amount of the fee and penalty due and costs of giving public notice, shall pay any surplus to the previous registered owners of the bicycles or mopeds. If at the expiration of ninety days the previous registered owners remain unknown, the surplus shall be paid into the treasury of the

county, as a government realization, and all claims to the sums shall be forever barred."

SECTION 5. Section 249-16, Hawaii Revised Statutes, is amended to read as follows:

**"§249-16 Duplicate bicycle ~~[and moped tags]~~ tag; duplicate moped license plate and tag; and duplicate certificates of registration.** In the event that a bicycle ~~[or moped]~~ tag or certificate of registration furnished under section 249-14 or 249-14.2 ~~or moped license plate, tag, or certificate of registration furnished under section 249-~~ is lost, stolen, or mutilated, or becomes illegible, the person to whom it was furnished may obtain a duplicate thereof by presenting to the county director of finance the number and registration of the bicycle or moped involved. There shall be a charge of \$2 for the duplicate tag, a fee as determined by the county director of finance for the duplicate license plate, and \$5 for the duplicate certificate of registration."

SECTION 6. Section 249-17, Hawaii Revised Statutes, is amended to read as follows:

**"§249-17 False tag, license plate,<sup>2</sup> bicycle or moped, penalty.** Any person who uses a tag, or license plate, not furnished in accordance with section 249-14 ~~or section 249-~~, or who counterfeits any such tag, or license plate, or who fraudulently removes such a tag, or license plate, from any bicycle or moped, shall be fined not more than \$500."

SECTION 7. Section 286-21, Hawaii Revised Statutes, is amended to read as follows:

**"§286-21 Vehicles and mopeds without required equipment or in unsafe condition.** No person shall drive or cause to move on any highway any motor vehicle, moped, trailer, semitrailer, or pole trailer, or any combination thereof, unless the equipment thereon is in good working order and adjustment as required in this part ~~[so as not to]~~ and does not endanger the driver or other occupant or any person upon the highway."

SECTION 8. Section 286-22, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

"(a) The chief of police or any police officer of any county may, at any time when the chief of police or police officer has reasonable cause to believe that a vehicle or moped is unsafe or not equipped as required by law, require the owner or driver of the vehicle or moped to submit the vehicle or moped to an inspection or make the necessary corrections or repairs.

(b) If the vehicle or moped is found to be in an unsafe condition or if any required part or equipment is not present or if any required part or equipment is present but not in proper repair, the officer shall issue a citation to the owner or driver stating the reasons that the vehicle or moped is deemed unsafe or is not equipped as required and shall require that a new certificate of inspection as provided in section 286-26 be obtained within five days or that the defect be cured.

(c) If upon inspection, the chief of police or any police officer determines that any vehicle or moped is in such unsafe condition as to constitute a menace to the public or is not equipped as required and cannot reasonably be restored to a safe condition as required in this part, the chief of police or police

officer shall remove the sticker which signifies the certificate of inspection and inform the director of finance who shall ~~[forthwith]~~ immediately suspend the registration of the vehicle or moped and give notice of the suspension to its owner. Whenever the director of finance has suspended the registration of any vehicle or moped under this part, the owner of the vehicle or moped shall immediately surrender and forward to the director of finance the certificate of registration and the license plates last issued upon registration of the vehicle for the current year."

SECTION 9. Section 286-23, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) No person shall operate any vehicle or moped after receiving a citation with reference thereto as provided in section 286-22(b), except that if the driver is authorized to do so by the police officer, the driver may return the vehicle or moped to the driver's residence or place of business or the residence or place of business of the owner of the vehicle[-] or moped, or to an automotive repair shop, if within a distance of twenty miles, until a certificate of inspection is obtained or the necessary corrections or repairs are made."

SECTION 10. Section 286-25, Hawaii Revised Statutes, is amended to read as follows:

**"§286-25 Operation of a vehicle or moped without a certificate of inspection.** Whoever operates, permits the operation of, causes to be operated, or parks any vehicle or moped on a public highway without a current official certificate of inspection, issued under section 286-26, shall be fined not more than \$100."

SECTION 11. Section 286-26, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a), (b), (c), (d), and (e) to read:

"(a) The following vehicles shall be certified as provided in subsection (e) once every year:

- (1) Trucks, truck-tractors, semitrailers, and pole trailers having a gross vehicle weight rating of more than 10,000 pounds;
- (2) Buses;
- (3) Rental or U-drive motor vehicles two years of age or older; ~~[and]~~
- (4) Taxicabs[-]; and
- (5) Mopeds.

Ambulances shall be certified as provided in subsection (e) once every six months.

(b) All other vehicles, including motorcycles, mopeds, trailers, semitrailers, and pole trailers having a gross vehicle weight rating of 10,000 pounds or less, and antique motor vehicles as defined in section 249-1, except those in subsections (c) and (d), shall be certified as provided in subsection (e) every twelve months; provided that any vehicle to which this subsection applies, except a moped, shall not require inspection within two years of the date on which the vehicle was first sold.

(c) Any vehicle or moped that has been involved in an accident shall be certified as provided in subsection (e) before it is operated again if:

- (1) It is determined by a police officer or an insurer that the vehicle's or moped's equipment has been damaged so as to render the vehicle or moped unsafe; or
- (2) It is rebuilt or restored.
- (d) Every vehicle or moped shall be certified prior to the issuance of a temporary or permanent registration by the director of finance and prior to the



transfer of any registration; provided that this requirement shall not apply to a subsequent transfer of registration in a vehicle or moped that carries a current certificate of inspection.

(e) Upon application for a certificate of inspection to be issued for a vehicle<sup>[.]</sup> or moped, an inspection as prescribed by the director under subsection (g) shall be conducted on the vehicle<sup>[.]</sup> or moped, and if the vehicle or moped is found to be in a safe operating condition, a certificate of inspection shall be issued upon payment of a fee to be determined by the director. The certificate shall state the effective date, the termination date, the name of the issuing insurance carrier, and the policy number of the motor vehicle insurance identification card for the inspected motor vehicle as specified by section 431:10C-107 or state the information contained in the proof of insurance card as specified by section 431:10G-106. A sticker, authorized by the director, shall be affixed to the vehicle or moped at the time a certificate of inspection is issued. An inspection sticker which has been lost, stolen, or destroyed shall be replaced without reinspection by the inspection station that issued the original inspection sticker upon presentation of the ~~vehicle's~~ current certificate of inspection; provided that the current certificate of inspection and inspection sticker shall not have expired at the time the replacement is requested. The director shall adopt rules to determine the fee for replacement of lost, stolen, or destroyed inspection stickers."

2. By amending subsection (i) to read:

"(i) As part of the inspection required by this section, the owner of the vehicle to be inspected, except for mopeds, shall produce and display the motor vehicle insurance identification card for the inspected motor vehicle required by section 431:10C-107 or the proof of insurance card required by section 431:10G-106. If no card is displayed, then the sticker authorized by the director shall not be affixed to the vehicle and the certificate of inspection shall not be issued."

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>3</sup>

SECTION 13. This Act shall take effect on January 1, 2017; provided that the staggering of registration and issuance of license plates for the current permanent registered mopeds shall be completed by December 31, 2017.

(Approved July 5, 2016.)

#### Notes

1. Prior to amendment "the" appeared here.
2. "License plate," should be underscored.
3. Edited pursuant to HRS §23G-16.5.

## ACT 201

H.B. NO. 1807

A Bill for an Act Relating to Military Service.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that reserve and national guard members, employed by the State, are authorized to receive fifteen days of annual paid military leave while on active duty or during periods of instruction or maneuvers. However, of the fifteen days, members actually use only about ten to twelve days, leaving the members with three to five days of unused military leave every

year. Title 5 United States Code section 6323(a)(1) authorizes federal employees to use these remaining days for monthly inactive-duty training. There is currently no state statute that allows state and county employees to do the same.

The legislature further finds that all branches of the nation's military undergo rigorous training to ensure troop readiness and the safety of citizens. Many members of the reserve and national guard often have full-time civilian occupations and thus keep their reserve and national guard skills current through inactive-duty training. The nation's military is strengthened and remains ready, in part, due to inactive-duty training.

The purpose of this Act is to support reserve and national guard members and to conform state law with federal law with regard to military leave pay.

SECTION 2. Section 78-16.5, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

**“[§78-16.5] Pay of officers and employees on active military service[.] and other periods.** (a) All officers and employees of the State and the several counties who are appointed for at least six months of service shall be entitled, while on active duty, inactive-duty training, or during periods of camps of instruction or field maneuvers as members of the [Hawaii] national guard or [organized reserves, including the officers' reserve corps and the enlisted reserve corps,] reserve of the armed forces under call of the President of the United States or the governor of the State, to receive pay as provided by law. During the absence of the officer or employee, while in the performance of ordered military or naval duty, including inactive-duty training, as a member of the national guard~~[, air national guard, naval militia, or organized reserves, including the officers' reserve corps and the enlisted reserve corps,]~~ or reserve of the armed forces, the officer or employee shall receive the officer's or employee's salary or compensation as ~~[such]~~ an officer or employee, but only for a period not exceeding fifteen working days in any calendar year.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved July 5, 2016.)

## ACT 202

S.B. NO. 2652

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Hawaii is vulnerable to soaring prices or disruptions of its energy imports, which can hinder, cripple, or even devastate the State's economy and the well-being of its inhabitants. As the most isolated land mass on Earth, Hawaii imports nearly ninety per cent of its energy and almost one hundred per cent of its transportation resources. The legislature finds that it is critical for Hawaii to ensure greater energy security by becoming more self-sufficient in its energy and food supply.

The legislature also finds that providing additional support to Hawaii's agriculture industry could help to reduce reliance on imports and to foster job

growth in the State. The legislature believes that creating a stronger market for renewable fuels will promote the production of locally-grown feedstock.

The purpose of this Act is to:

- (1) Establish a renewable fuels production tax credit to achieve greater energy security for Hawaii; and
- (2) Repeal the ethanol facility tax credit.

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§235- Renewable fuels production tax credit.** (a) As used in this section:

“Credit period” means a maximum period of five consecutive years, beginning from the first taxable year in which a taxpayer begins renewable fuels production at a level of at least fifteen billion British thermal units of renewable fuels per year.

“Net income tax liability” means income tax liability reduced by all other credits allowed under this chapter.

“Renewable feedstocks” means:

- (1) Biomass crops;
- (2) Agricultural residues;
- (3) Oil crops, including but not limited to algae, canola, jatropha, palm, soybean, and sunflower;
- (4) Sugar and starch crops, including but not limited to sugar cane and cassava;
- (5) Other agricultural crops;
- (6) Grease and waste cooking oil;
- (7) Food wastes;
- (8) Municipal solid wastes and industrial wastes;
- (9) Water; and
- (10) Animal residues and wastes,

that can be used to generate energy.

“Renewable fuels” means fuels produced from renewable feedstocks; provided that:

- (1) The fuels shall be sold as a fuel; and
- (2) The fuels meet the relevant ASTM International specifications for the particular fuel or other industry specifications for liquid or gaseous fuels, including but not limited to:
  - (A) Methanol, ethanol, or other alcohols;
  - (B) Hydrogen;
  - (C) Biodiesel or renewable diesel;
  - (D) Biogas;
  - (E) Other biofuels; or
  - (F) Renewable jet fuel or renewable gasoline.

(b) Each year during the credit period, there shall be allowed to each taxpayer subject to the taxes imposed by this chapter, a renewable fuels production tax credit that shall be applied to the taxpayer’s net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

For each taxpayer producing renewable fuels, the annual dollar amount of the renewable fuels production tax credit during the five-year credit period shall be equal to 20 cents per seventy-six thousand British thermal units of renewable fuels using the lower heating value sold for distribution in Hawaii; provided that the taxpayer’s production of renewable fuels is not less than fifteen

billion British thermal units of renewable fuels per year; provided further that the amount of the tax credit claimed under this section by a taxpayer shall not exceed \$3,000,000 per taxable year. No other tax credit may be claimed under this chapter for the costs related to renewable fuels production that are used to properly claim a tax credit under this section for the taxable year.

(c) The department of business, economic development, and tourism shall:

- (1) Verify the amount and type of renewable fuels produced and sold, including the purpose for which the fuel was produced;
- (2) Total all renewable fuels production that the department of business, economic development, and tourism certifies for purposes of paragraph (3); and
- (3) Certify the total amount of the tax credit for each taxable year and the cumulative amount of the tax credit during the credit period.

Upon each determination, the department of business, economic development, and tourism shall issue a certificate to the taxpayer verifying the amount of renewable fuels produced and sold, the credit amount certified for each taxable year, and the cumulative amount of the tax credit during the credit period. The taxpayer shall file the certificate with the taxpayer's tax return with the department of taxation. Notwithstanding the department of business, economic development, and tourism's certification authority under this section, the director of taxation may audit and adjust the certification to conform to the facts.

If in any year, the annual amount of certified credits reaches \$3,000,000 in the aggregate, the department of business, economic development, and tourism shall immediately discontinue certifying credits and notify the department of taxation. In no instance shall the total amount of certified credits exceed \$3,000,000 per year. Notwithstanding any other law to the contrary, the verification and certification information compiled by the department of business, economic development, and tourism shall be available for public inspection and dissemination under chapter 92F.

(d) If the credit under this section exceeds the taxpayer's net income tax liability, the excess of the credit over liability may be used as a credit against the taxpayer's net income tax liability in subsequent years until exhausted. All claims for a credit under this section shall be properly filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(e) Prior to production of any renewable fuels for the year, the taxpayer shall provide written notice of the taxpayer's intention to begin production of renewable fuels. The information shall be provided to the department of taxation and the department of business, economic development, and tourism on forms provided by the department of business, economic development, and tourism, and shall include information on the taxpayer, facility location, facility production capacity, anticipated production start date, and taxpayer's contact information. Notwithstanding any other law to the contrary, this taxpayer and facility information shall be available for public inspection and dissemination under chapter 92F.

(f) The taxpayer shall provide written notice to the director of taxation and the director of business, economic development, and tourism within thirty days following the start of production. The notice shall include the production start date and expected renewable fuels production for the next twelve months. Notwithstanding any other law to the contrary, this production information shall be available for public inspection and dissemination under chapter 92F.

(g) Each calendar year during the credit period, the taxpayer shall provide information to the director of business, economic development, and tourism on:

- (1) The number of British thermal units of renewable fuels produced and sold during the previous calendar year;
- (2) The type of fuels;
- (3) Feedstocks used for renewable fuels production;
- (4) The number of employees of the facility and each employee's state of residency; and
- (5) The projected number of British thermal units of renewable fuels production for the succeeding year.

(h) In the case of a partnership, S corporation, estate, or trust, distribution and share of the renewable fuels production tax credit shall be determined pursuant to section 704(b) (with respect to partner's distributive share) of the Internal Revenue Code.

(i) Following each year in which a credit under this section has been claimed, the director of business, economic development, and tourism shall submit a written report to the governor and legislature regarding the production and sale of renewable fuels. The report shall include:

- (1) The number, location, and production of renewable fuels production facilities in the State and outside the State that have claimed a credit under this section;
- (2) The total number of British thermal units of renewable fuels, broken down by type of fuel, produced and sold during the previous year; and
- (3) The projected number of British thermal units of renewable fuels production for the succeeding year.

(j) The director of taxation shall prepare forms that may be necessary to claim a credit under this section. The director of taxation may require the taxpayer to furnish information to ascertain the validity of the claim for credit made under this section and may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91."

SECTION 3. Section 235-110.3, Hawaii Revised Statutes, is repealed.

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval and shall apply to taxable years beginning after December 31, 2016; provided that section 2 shall be repealed on December 31, 2021.

(Approved July 5, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that comprehensive multidisciplinary reviews of child deaths, as performed in the past by the Hawaii child death review system that was established by Act 369, Session Laws of Hawaii 1997, are needed to understand risk factors, prevent future child deaths, and keep children in the State of Hawaii safe and healthy. Child death reviews provide in-depth, accurate, and timely information to assist with the administration of child health and protection programs and provide appropriate data reporting to federal and state agencies.

However, the legislature finds that the system has been inactive since 2011 and, consequently, these important child death reviews are not currently being conducted in the State of Hawaii. The legislature notes that the child death review system is codified under chapter 321, part XXVII, Hawaii Revised Statutes, and is not mandatory.

Similarly, comprehensive multidisciplinary reviews of maternal deaths are needed to understand risk factors for and prevent the deaths of mothers during pregnancy, labor, and the year following the birth of a child. This information would benefit policymakers and facilitate the establishment and administration of relevant programs. However, the legislature finds that Hawaii does not currently conduct such reviews of maternal deaths.

The legislature additionally finds that comprehensive reviews of child and maternal deaths are a matter of ongoing concern. Because the program of reviews must be sustainable, the legislature recognizes the need to provide funding to conduct child and maternal death reviews not only in the current biennium, but in subsequent biennia as well.

The purpose of this Act is to ensure that the legislature receives appropriate information about child and maternal death reviews and to provide funding to the department of health to conduct child death reviews and to implement a program for the performance of maternal death reviews.

#### PART I

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part XXVII to be appropriately designated and to read as follows:

**“§321- Child death reviews; reports.** (a) The director shall submit an annual written report to the legislature no later than twenty days prior to the convening of each regular session on the status of child death reviews conducted by the department pursuant to this part. The annual report shall cover the calendar year immediately prior to the year in which the report is due and shall describe the total number of child deaths in Hawaii and the causes of those deaths, the number of deaths of children in state custody and the causes of those deaths, any child death review activities conducted by the department, trends in child deaths, and recommendations for system changes, including any proposed legislation.

(b) Upon written request of the director, a state or county agency shall report deaths of children in the custody of the state or county agency to the department, including any information on the circumstances of the child's death deemed relevant by the director.

(c) The director shall submit a copy of any other child death review report published by the department, including findings and recommendations resulting from such a review, to the legislature upon the report's publication."

SECTION 3. Section 321-343, Hawaii Revised Statutes, is amended to read as follows:

**"[§321-343] Access to information[-]; use of child death review information; protections.** (a) Upon written request of the director, all providers of [medical] health care, social services, and state and county agencies shall disclose to the department, and those individuals appointed by the director to participate in the review of child deaths, child death review information regarding the circumstances of a child's death so that the department may conduct a multidisciplinary and multiagency review of child deaths pursuant to section 321-31 and this part. All requested disclosures shall comply with state and federal privacy statutes and regulations, including the Health Insurance Portability and Accountability Act, and the department shall not request records of any internal hospital committee, peer review committee, or quality improvement review process. The department may enter into a memorandum of agreement with hospitals regarding requests for information to be used for child death reviews.

(b) To the extent that this section conflicts with other state confidentiality and disclosure laws, this section shall prevail.

(c) Except as otherwise provided in this part, all child death review information acquired by the department during its review of child deaths pursuant to this part is confidential and may only be disclosed as necessary to carry out the purposes of this part.

(d) No individual participating in the review of a child death shall be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a multidisciplinary review. Nothing in this subsection shall be construed to prevent a person from testifying to information obtained independently of the department's request for child death review information or the multidisciplinary team's review of the child death, or which is public information, or where disclosure is required by a court of law.

(e) Child death review information held by the department as a result of child death reviews conducted under this part shall not be subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding, except that child death review information otherwise available from other sources shall not be immune from subpoena, discovery, or introduction into evidence through those sources solely because they were provided to the department as required by this part."

SECTION 4. Section 321-345, Hawaii Revised Statutes, is repealed.

## PART II

SECTION 5. Chapter 324, Hawaii Revised Statutes, is amended by adding two new sections to part I to be appropriately designated and to read as follows:

**"§324-A Multidisciplinary and multiagency reviews.** The department of health may conduct multidisciplinary and multiagency reviews of maternal deaths to reduce the incidence of preventable maternal deaths.

**§324-B Maternal death review reports.** (a) The director of health shall submit an annual written report to the legislature no later than twenty days prior to the convening of each regular session on the status of reviews of maternal deaths conducted by the department. The annual report shall cover the calendar year immediately prior to the year in which the report is due and shall describe the total number of deaths of women while pregnant or within one year after a pregnancy in Hawaii, the causes of those deaths and whether the causes of death were pregnancy related, any maternal mortality review activities conducted by the department, trends in maternal deaths, and recommendations for system changes, including any proposed legislation.

(b) The director of health shall submit a copy of any other maternal death review report published by the department of health, detailing findings and recommendations resulting from such a review, to the legislature upon the report's publication."

SECTION 6. Section 324-1, Hawaii Revised Statutes, is amended to read as follows:

**"§324-1 [Sources] Requests for information; sources of information protected.** ~~[Any person, hospital, sanatorium, nursing or rest home, or other similar medical facility may]~~ (a) Upon written request from the director of health, all providers of health care, social services, and county and state agencies shall provide information, [interviews,] reports, statements, memoranda, death and birth records, or other data or material relating to the condition and treatment of any person to [the maternal and perinatal mortality study committee of the Hawaii Medical Association, any in-hospital staff committee, or] the department of health[;] or its designee, to be used in the course of any study for the purpose of reducing maternal morbidity or mortality.

(b) To the extent that this section conflicts with other state confidentiality and disclosure laws, this section shall prevail.

(c) The department of health may request information regarding the deceased that is stored in electronic format or in paper copies, or gathered through interviews, subject to certain restrictions, which include but are not limited to:

- (1) Social, medical, and legal histories;
- (2) Death and birth certificates;
- (3) Law enforcement investigative data;
- (4) Medical examiner or coroner investigative data;
- (5) Parole and probation information and records;
- (6) Information and records of social service agencies;
- (7) Educational records;
- (8) Medical records; and
- (9) Interviews with hospital employees that shall be subject to approval from hospital management.

Furthermore, all requested disclosures shall comply with state and federal privacy statutes and regulations, including the Health Insurance Portability and Accountability Act, and the department of health shall not request records of any hospital review committee, peer review committee, or quality improvement review process. The department may enter into a memorandum of agreement with hospitals regarding requests for information to be used for maternal mortality reviews.

No liability of any kind or character for damages or other relief shall arise or be enforced against any person or organization by reason of having provided the information or material, or by reason of having released or published



the findings, conclusions, and summaries of the research or study committees to advance medical research and medical education.

(d) Except as otherwise provided in this part, all maternal mortality review information acquired by the department during its review of maternal deaths pursuant to this part is confidential and shall only be disclosed as necessary to carry out the purposes of this part.

(e) No individual participating in the review of a maternal death shall be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a panel meeting. Nothing in this subsection shall be construed to prevent a person from testifying to information obtained independently of the department's request for maternal mortality review information or the panel's review of the maternal death, or which is public information, or where disclosure is required by a court of law.

(f) Maternal mortality review information held by the department as a result of maternal mortality reviews conducted pursuant to this part shall not be subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding, except that maternal mortality review information otherwise available from other sources shall not be immune from subpoena, discovery, or introduction into evidence through those sources solely because they were provided to the department as required by this part."

SECTION 7. Section 324-2, Hawaii Revised Statutes, is amended to read as follows:

**"§324-2 Identification of persons studied; restriction.** The [maternal and perinatal mortality study committee of the Hawaii Medical Association, the] department of health, or its designee, or any in-hospital staff committee shall use or publish this material only for the purpose of advancing medical research, medical education, or education of the public in the interest of reducing morbidity or mortality. In all events, the identity, or any group of facts which tends to lead to the identity, of any person whose condition or treatment has been studied shall be confidential and shall not be revealed under any circumstances."

### PART III

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the department of health to conduct child death reviews in accordance with chapter 321, part XXVII, Hawaii Revised Statutes, and to implement a program for the performance of maternal death reviews in accordance with part I of chapter 324, Hawaii Revised Statutes.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

### PART IV

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect on July 1, 2016.

(Approved July 5, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Insurance Coverage of Health Screenings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that some patients have difficulty receiving proper screenings for sexually transmitted diseases, including human immunodeficiency virus and acquired immunodeficiency syndrome, at annual health screenings. The legislature further finds that more than 1,200,000 people in the United States are living with human immunodeficiency virus and almost one in eight affected persons is unaware of the infection. It is estimated that, each year, more than fifty thousand cases of human immunodeficiency virus are reported with one in four of the new infections striking those between the ages of thirteen and twenty-four.

The legislature further finds that early detection of sexually transmitted diseases is paramount to proper health care and prevention of further transmission. The legislature further finds that certain health care providers may not screen specifically for some sexually transmitted diseases, including human immunodeficiency virus and acquired immunodeficiency syndrome, at annual screenings, even though the federal Patient Protection and Affordable Care Act of 2010 requires health insurance to cover those screenings without any patient cost sharing.

The purpose of this Act is to ensure that all insurers in the State, including health benefits plans under chapter 87A, Hawaii Revised Statutes, provide insurance coverage for annual screenings for sexually transmitted diseases, including screenings for human immunodeficiency virus and acquired immunodeficiency syndrome.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to part I of article 10A to be appropriately designated and to read as follows:

**“§431:10A- Human immunodeficiency virus and acquired immunodeficiency syndrome screening coverage.** (a) Each policy of accident and health or sickness insurance issued or renewed in this State, except for policies that only provide coverage for specified diseases or other limited benefit coverage as described in section 431:10A-102.5, shall provide coverage for annual screenings for sexually transmitted diseases, including screenings for human immunodeficiency virus and acquired immunodeficiency syndrome.

(b) Each accident and health or sickness insurer shall reimburse all costs associated with the coverage under subsection (a) to any physician or health care provider complying with this section.”

SECTION 3. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to part VI of article 1 to be appropriately designated and to read as follows:

**“§432:1- Human immunodeficiency virus and acquired immunodeficiency syndrome screening coverage.** (a) Each hospital or medical service plan contract issued or renewed in this State, except for plan contracts that only provide coverage for specified diseases or other limited benefit coverage, shall provide coverage for annual screenings for sexually transmitted diseases, including screenings for human immunodeficiency virus and acquired immunodeficiency syndrome.

(b) Each mutual benefit society shall reimburse all costs associated with the coverage under subsection (a) to any physician or health care provider complying with this section.”

SECTION 4. Section 432D-23, Hawaii Revised Statutes, is amended to read as follows:

“§432D-23 Required provisions and benefits. Notwithstanding any provision of law to the contrary, each policy, contract, plan, or agreement issued in the State after January 1, 1995, by health maintenance organizations pursuant to this chapter, shall include benefits provided in sections 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120, 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, 431:10A-132, 431:10A-133, [and] 431:10A-140, and 431:10A-, and chapter 431M.”

SECTION 5. Section 23-51, Hawaii Revised Statutes, shall not apply to this Act.

SECTION 6. Notwithstanding any other law to the contrary, the coverage for annual screenings of sexually transmitted diseases, including screenings for human immunodeficiency virus and acquired immunodeficiency syndrome, required under sections 2, 3, and 4 of this Act shall apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes, issued, renewed, modified, altered, or amended on or after January 1, 2018.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on July 1, 2016, and shall apply to policies, contracts, and plans of health insurance issued or renewed after January 1, 2018.

(Approved July 5, 2016.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 205

S.B. NO. 2319

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that insurance companies typically cover a thirty- or ninety-day supply of prescription contraceptives. However, these coverage requirements may act as a barrier for women, especially those who live in rural areas, frequently travel, are unable to schedule regular visits to health care providers, or are unable to readily pick up their prescriptions. The legislature further finds that statewide efforts to expand women’s access to prescription contraceptives, including long-acting reproductive contraceptives, have been shown to help decrease unplanned pregnancies.

The legislature additionally finds that Oregon recently enacted legislation to expand women's access to prescription contraception. The law requires women to first obtain a three-month supply of prescription contraceptives then allows women to fill subsequent prescriptions for a year at a time. The legislature concludes that Hawaii should adopt similar legislation, which will increase access to prescription contraceptive supplies and decrease barriers regarding reproductive health care. The legislature notes that the American Congress of Obstetricians and Gynecologists and the federal Centers for Disease Control and Prevention recommend prescribing or supplying up to one year of oral contraceptive supplies, based on a woman's preferences and anticipated use.

Accordingly, the purpose of this Act is to expand access to prescription contraceptives by requiring insurers to cover up to a twelve-month period of prescription contraceptive supplies for an insured.

The legislature notes that the reimbursement for prescription contraceptive supplies required under this Act is intended to apply to all insurers in the State, including health benefits plans under chapter 87A, Hawaii Revised Statutes, and medicaid managed care programs.

SECTION 2. Section 431:10A-116.6, Hawaii Revised Statutes, is amended to read as follows:

**"§431:10A-116.6 Contraceptive services.** (a) Notwithstanding any provision of law to the contrary, each employer group accident and health or sickness policy, contract, plan, or agreement issued or renewed in this State on or after January 1, 2000, shall cease to exclude contraceptive services or supplies for the subscriber or any dependent of the subscriber who is covered by the policy, subject to the exclusion under section 431:10A-116.7[-] and the exclusion under section 431:10A-102.5.

(b) Except as provided in subsection (c), all policies, contracts, plans, or agreements under subsection (a), that provide contraceptive services or supplies, or prescription drug coverage, shall not exclude any prescription contraceptive supplies or impose any unusual copayment, charge, or waiting requirement for such supplies.

(c) Coverage for oral contraceptives shall include at least one brand from the monophasic, multiphasic, and the progestin-only categories. A member shall receive coverage for any other oral contraceptive only if:

- (1) Use of brands covered has resulted in an adverse drug reaction; or
- (2) The member has not used the brands covered and, based on the member's past medical history, the prescribing health care provider believes that use of the brands covered would result in an adverse reaction.

(d) Coverage required by this section shall include reimbursement to a prescribing health care provider or dispensing entity for prescription contraceptive supplies intended to last for up to a twelve-month period for an insured.

~~[(d)]~~ (e) For purposes of this section:

"Contraceptive services" means physician-delivered, physician-supervised, physician assistant-delivered, ~~[nurse practitioner-delivered, certified nurse midwife-delivered,]~~ advanced practice registered nurse-delivered, nurse-delivered, or pharmacist-delivered medical services intended to promote the effective use of contraceptive supplies or devices to prevent unwanted pregnancy.

"Contraceptive supplies" means all United States Food and Drug Administration-approved contraceptive drugs or devices used to prevent unwanted pregnancy.

[(e)] (f) Nothing in this section shall be construed to extend the practice or privileges of any health care provider beyond that provided in the laws governing the provider's practice and privileges."

SECTION 3. Section 432:1-604.5, Hawaii Revised Statutes, is amended to read as follows:

**"§432:1-604.5 Contraceptive services.** (a) Notwithstanding any provision of law to the contrary, each employer group health policy, contract, plan, or agreement issued or renewed in this State on or after January 1, 2000, shall cease to exclude contraceptive services or supplies, and contraceptive prescription drug coverage for the subscriber or any dependent of the subscriber who is covered by the policy, subject to the exclusion under section 431:10A-116.7.

(b) Except as provided in subsection (c), all policies, contracts, plans, or agreements under subsection (a), that provide contraceptive services or supplies, or prescription drug coverage, shall not exclude any prescription contraceptive supplies or impose any unusual copayment, charge, or waiting requirement for such drug or device.

(c) Coverage for contraceptives shall include at least one brand from the monophasic, multiphasic, and the progestin-only categories. A member shall receive coverage for any other oral contraceptive only if:

- (1) Use of brands covered has resulted in an adverse drug reaction; or
- (2) The member has not used the brands covered and, based on the member's past medical history, the prescribing health care provider believes that use of the brands covered would result in an adverse reaction.

(d) Coverage required by this section shall include reimbursement to a prescribing health care provider or dispensing entity for prescription contraceptive supplies intended to last for up to a twelve-month period for a member.

[(d)] (e) For purposes of this section:

"Contraceptive services" means physician-delivered, physician-supervised, physician assistant-delivered, ~~[nurse-practitioner-delivered, certified nurse midwife-delivered,]~~ advanced practice registered nurse-delivered, or nurse-delivered medical services intended to promote the effective use of contraceptive supplies or devices to prevent unwanted pregnancy.

"Contraceptive supplies" means all Food and Drug Administration-approved contraceptive drugs or devices used to prevent unwanted pregnancy.

[(e)] (f) Nothing in this section shall be construed to extend the practice or privileges of any health care provider beyond that provided in the laws governing the provider's practice and privileges."

SECTION 4. Notwithstanding any other law to the contrary, the reimbursement for prescription contraceptive supplies required under sections 2 and 3 of this Act shall apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes, issued, renewed, modified, altered, or amended on or after January 1, 2017.

SECTION 5. The reimbursement for prescription contraceptive supplies required under sections 2 and 3 of this Act shall apply to all plans under medic-aid managed care programs in the State.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2016; provided that sections 2 and 3 shall apply to all policies, contracts, plans, or agreements issued or renewed in the State on or after January 1, 2017; provided further that section 5 shall take effect upon approval of the Hawaii medicaid state plan by the Centers for Medicare and Medicaid Services.

(Approved July 5, 2016.)

## ACT 206

H.B. NO. 1902

A Bill for an Act Relating to Sex Trafficking.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 28-101, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The attorney general shall establish a statewide witness program through which the attorney general may fund or provide for the security and protection of a government witness or a potential government witness in an official proceeding or investigation where the attorney general determines that an offense [~~such as those~~] described in section 710-1071 (intimidating a witness), 710-1072 (tampering with a witness), or 710-1072.2 (retaliating against a witness) is likely to be committed or [~~which~~] involves great public interest. The attorney general may also fund or provide for the security and protection of the immediate family of, or a person otherwise closely associated with, [~~such~~] the witness or potential witness if the family or person may also be endangered. In determining whether the funds or security and protection are to be provided, the attorney general shall give greatest priority to official proceedings or investigations involving pending or potential organized crime, racketeering activity, promoting prostitution, sex trafficking, or career criminal prosecutions.”

SECTION 2. Section 351-32, Hawaii Revised Statutes, is amended to read as follows:

“§351-32 **Violent crimes.** The crimes to which part III of this chapter applies are the following and no other:

- (1) Murder in the first degree (section 707-701);
- (2) Murder in the second degree (section 707-701.5);
- (3) Manslaughter (section 707-702);
- (4) Negligent homicide in the first degree (section 707-702.5);
- (5) Negligent homicide in the second degree (section 707-703);
- (6) Negligent injury in the first degree (section 707-705);
- (7) Negligent injury in the second degree (section 707-706);
- (8) Assault in the first degree (section 707-710);
- (9) Assault in the second degree (section 707-711);
- (10) Assault in the third degree (section 707-712);
- (11) Kidnapping (section 707-720);
- (12) Sexual assault in the first degree (section 707-730);
- (13) Sexual assault in the second degree (section 707-731);
- (14) Sexual assault in the third degree (section 707-732);
- (15) Sexual assault in the fourth degree (section 707-733);
- (16) Abuse of family [~~or~~] household [~~member~~] members (section 709-906); [~~and~~]
- (17) Sex trafficking (section 712-1202); and

~~[(47)]~~ <sup>(18)</sup> Terrorism, as defined in title 18 United States Code section 2331.”

SECTION 3. Section 663J-1, Hawaii Revised Statutes, is amended to read as follows:

**“[H§663J-1] Title.** This [chapter] may be cited as the Sex Trafficking and Prostitution Coercion Liability Act.”

SECTION 4. Section 663J-2, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:  
~~““Sex trafficking” has the same meaning as provided in section 712-1202.”~~
2. By amending the definition of “promoting prostitution” to read:  
~~““Promoting prostitution” means promoting prostitution [in the first or second degree,] as provided in [sections 712-1202 and] section 712-1203[; respectively].”~~

SECTION 5. Section 663J-3, Hawaii Revised Statutes, is amended to read as follows:

**“[H§663J-3] Cause of action for coercion into prostitution[-] or sex trafficking.** An individual has a cause of action against a person who:

- (1) Coerced the individual into prostitution[;] or to remain in prostitution, or subjected the individual to sex trafficking;
- ~~[(2) Coerced the individual to remain in prostitution;~~
- ~~(3) (2) Used coercion to collect or receive any of the individual’s earnings derived from prostitution[;] or from being the subject of sex trafficking; or~~
- ~~[(4)] (3) Hired, or attempted to hire the individual to engage in prostitution, when a reasonable person would believe that the individual was coerced into prostitution by another person[-] or was being subjected to sex trafficking.~~

~~[Paragraph (3) shall not apply to minor children who are dependent on the individual and who may have benefited from or been supported by the individual’s earnings derived from prostitution.]”~~

SECTION 6. Section 663J-5, Hawaii Revised Statutes, is amended to read as follows:

**“[H§663J-5] Damages.** ~~[A person]~~ An individual entitled to bring an action under section 663J-3 may recover all of the following damages:

- (1) Economic damages proximately caused by coercion into prostitution[;] or being the subject of sex trafficking;
- (2) Noneconomic damages proximately caused by coercion into prostitution[;] or being the subject of sex trafficking;
- (3) Exemplary damages;
- (4) Reasonable attorney’s fees; and
- (5) Costs of suit, including reasonable expenses for expert testimony.”

SECTION 7. Section 663J-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In the discretion of the court, two or more ~~[persons]~~ individuals may join in one action under this chapter as plaintiffs if their respective actions

involve ~~[an individual]~~ a person who engages in promoting prostitution by coercion~~[-]~~ or subjecting the individuals to sex trafficking."

SECTION 8. Section 663J-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A claim under this chapter may not be brought against a person more than six years after an act of promoting prostitution by coercion or sex trafficking by that person."

SECTION 9. Section 663J-8, Hawaii Revised Statutes, is amended to read as follows:

**~~[[§663J-8]]~~ Stay of action.** On motion by a governmental agency involved in an investigation or prosecution for promoting prostitution~~[-]~~ or sex trafficking, an action brought under this chapter shall be stayed until the completion of the criminal investigation or prosecution that gave rise to the motion for a stay of the action."

SECTION 10. Section 663J-9, Hawaii Revised Statutes, is amended to read as follows:

**~~[[§663J-9]]~~ Other remedies preserved.** The remedies provided under this chapter do not restrict the right of any ~~[person]~~ individual to bring an action under other law, including common law, to recover damages arising out of the use of the individual in prostitution, or subjecting the individual to sex trafficking, or the coercion incident to the individual being used in prostitution~~[-]~~ or sex trafficking; nor does this chapter limit or restrict the liability of any person under other law."

SECTION 11. Chapter 712, Hawaii Revised Statutes, is amended by amending the title of part I to read as follows:

**"PART I. PROSTITUTION ~~[AND]~~, PROMOTING PROSTITUTION, AND SEX TRAFFICKING"**

SECTION 12. Section 712-1200, Hawaii Revised Statutes, is amended to read as follows:

**"§712-1200 Prostitution.** (1) A person commits the offense of prostitution if the person:

- (a) Engages in, or agrees or offers to engage in, sexual conduct with another person in return for a fee; or
- (b) Pays, agrees to pay, or offers to pay a fee to another to engage in sexual conduct.

(2) As used in ~~[subsection (1), "sexual"]~~ this section:

"Sexual conduct" means "sexual penetration", "deviate sexual intercourse", or "sexual contact", as those terms are defined in section 707-700, or "sodomasochistic abuse" as defined in section 707-752.

"Minor" means a person who is less than eighteen years of age.

(3) Prostitution is a petty misdemeanor~~[-]~~; provided that:

- (a) If the person who commits the offense under subsection (1)(a) is a minor, prostitution is a violation; and
- (b) If the person who commits the offense under subsection (1)(b) does so in reckless disregard of the fact that the other person is a victim



of sex trafficking, prostitution is a class C felony.

(4) A person convicted of committing the offense of prostitution as a petty misdemeanor shall be sentenced as follows:

- (a) For the first offense, when the court has not deferred further proceedings pursuant to chapter 853, a fine of not less than \$500 but not more than \$1,000 and the person may be sentenced to a term of imprisonment of not more than thirty days or probation; provided that in the event the convicted person defaults in payment of the fine, and the default was not contumacious, the court may sentence the person to perform services for the community as authorized by section 706-605(1).
- (b) For any subsequent offense, a fine of not less than \$500 but not more than \$1,000 and a term of imprisonment of thirty days or probation, without possibility of deferral of further proceedings pursuant to chapter 853 and without possibility of suspension of sentence.
- (c) For the purpose of this subsection, if the court has deferred further proceedings pursuant to chapter 853, and notwithstanding any provision of chapter 853 to the contrary, the defendant shall not be eligible to apply for expungement pursuant to section 831-3.2 until four years following discharge. A plea previously entered by a defendant under section 853-1 for a violation of this section shall be considered a prior offense. When the court has ordered a sentence of probation, the court may impose as a condition of probation that the defendant complete a course of prostitution intervention classes; provided that the court may only impose ~~[such]~~ the condition for one term of probation.

(5) This section shall not apply to any member of a police department, a sheriff, or a law enforcement officer acting in the course and scope of duties, unless engaged in sexual penetration or sadomasochistic abuse.

(6) A minor may be taken into custody by any police officer without order of the judge when there are reasonable grounds to believe that the minor has violated paragraph (1)(a). The minor shall be released, referred, or transported pursuant to subsection 571-31(b). The minor shall be subject to the jurisdiction of the family court pursuant to section 571-11(1), including for the purposes of custody, detention, diversion, and access to services and resources."

SECTION 13. Section 712-1201, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**"§712-1201 ~~[Promoting prostitution;]~~ Advancing prostitution; profiting from prostitution; definition of terms."**

SECTION 14. Section 712-1202, Hawaii Revised Statutes, is amended to read as follows:

**"§712-1202 ~~[Promoting prostitution in the first degree.]~~ Sex trafficking.**

(1) A person commits the offense of ~~[promoting prostitution in the first degree]~~ sex trafficking if the person knowingly:

- (a) Advances prostitution by compelling or inducing a person by force, threat, fraud, or intimidation to engage in prostitution, or profits

from such conduct by another; or

- (b) Advances or profits from prostitution of ~~[a person less than eighteen years old;]~~ a minor; provided that with respect to the victim's age, the prosecution shall be required to prove only that the person committing the offense acted negligently.

(2) ~~[Promoting prostitution in the first degree]~~ Sex trafficking is a class A felony.

(3) As used in this section:

"Fraud" means making material false statements, misstatements, or omissions.

"Minor" means a person who is less than eighteen years of age.

"Threat" means any of the actions listed in section 707-764(1)."

SECTION 15. Section 712-1203, Hawaii Revised Statutes, is amended to read as follows:

**"§712-1203 Promoting prostitution ~~[in the second degree]~~."** (1) A person commits the offense of promoting prostitution ~~[in the second degree]~~ if the person knowingly advances or profits from prostitution.

(2) Promoting prostitution ~~[in the second degree]~~ is a class B felony."

SECTION 16. Section 712-1209.6, Hawaii Revised Statutes, is amended to read as follows:

**"§712-1209.6 Prostitution; motion to vacate conviction."** (1) A person convicted of committing the offense of prostitution under section 712-1200, loitering for the purpose of engaging in or advancing prostitution under section 712-1206, street solicitation of prostitution in designated areas under section 712-1207, or convicted of a lesser offense when originally charged with a violation of section 712-1200, 712-1206, or 712-1207, may file a motion to vacate the conviction if the defendant's participation in the offense was the result of the person having been a victim of:

- (a) ~~[Promoting prostitution in the first degree]~~ Sex trafficking under section 712-1202~~[-or]~~ or promoting prostitution under section 712-1203; or
- (b) A severe form of trafficking in persons as defined in title 22 United States Code section 7102(9)(A).
- (2) A motion filed under this section shall:
  - (a) Be in writing;
  - (b) Be signed and sworn to by the petitioner;
  - (c) Be made within six years after the date that the person ceases to be a victim as described in subsection (1), subject to reasonable concerns for the safety of the defendant, family members of the defendant, or other victims of the trafficking that may be jeopardized by the bringing of a motion, or for other reasons consistent with the purpose of this section;
  - (d) Describe all the grounds and evidence for vacation of a conviction which are available to the petitioner and of which the petitioner has or by the exercise of reasonable diligence should have knowledge, and provide copies of any official documents showing that the defendant is entitled to relief under this section; and
  - (e) Be subject to the review and written approval of the state agency or

county prosecutor responsible for prosecuting the offense that is the subject of the motion to vacate conviction.

(3) The court shall hold a hearing on a motion filed under this section if the motion satisfies the requirements of subsection (2); provided that the court may dismiss a motion without a hearing if the court finds that the motion fails to assert grounds on which relief may be granted.

(4) If the court grants a motion filed under this section, the court shall vacate the conviction.

(5) A person making a motion to vacate pursuant to this section has the burden of proof by a preponderance of the evidence.

(6) This section shall not apply to a motion to vacate a conviction under this chapter for:

(a) Sex trafficking under section 712-1202;

~~[(a)]~~ (b) Promoting prostitution under section ~~[712-1202 or]~~ 712-1203; or

~~[(b)]~~ (c) A person who pays, agrees to pay or offers a fee to another person to engage in sexual conduct.

~~[(7) For the purposes of this section:~~

~~“Victim of trafficking” and “victim of a severe form of trafficking” shall have the same meaning as in title 22 United States Code section 7102.”]~~

SECTION 17. Section 712A-4, Hawaii Revised Statutes, is amended to read as follows:

**“§712A-4 Covered offenses.** Offenses for which property is subject to forfeiture under this chapter are:

- (a) All offenses that specifically authorize forfeiture;
- (b) Murder, kidnapping, labor trafficking, gambling, criminal property damage, robbery, bribery, extortion, theft, unauthorized entry into motor vehicle, burglary, money laundering, trademark counterfeiting, insurance fraud, promoting a dangerous, harmful, or detrimental drug, commercial promotion of marijuana, methamphetamine trafficking, manufacturing of a controlled substance with a child present, promoting child abuse, promoting prostitution, sex trafficking, solicitation of a minor for prostitution, habitual solicitation of prostitution, or electronic enticement of a child that is chargeable as a felony offense under state law;
- (c) The manufacture, sale, or distribution of a controlled substance in violation of chapter 329, promoting detrimental drugs or intoxicating compounds, promoting pornography, promoting pornography for minors, or solicitation of prostitution near schools or public parks, which is chargeable as a felony or misdemeanor offense, but not as a petty misdemeanor, under state law; and
- (d) The attempt, conspiracy, solicitation, coercion, or intimidation of another to commit any offense for which property is subject to forfeiture.”

SECTION 18. Section 803-44, Hawaii Revised Statutes, is amended to read as follows:

**“§803-44 Application for court order to intercept wire, oral, or electronic communications.** The attorney general of this State, or a designated deputy attorney general in the attorney general’s absence or incapacity, or the prosecut-

ing attorney of each county, or a designated deputy prosecuting attorney in the prosecuting attorney's absence or incapacity, may make application to a designated judge or any other circuit court judge or district court judge, if a circuit court judge has not been designated by the chief justice of the Hawaii supreme court, or is otherwise unavailable, in the county where the interception is to take place, for an order authorizing or approving the interception of wire, oral, or electronic communications, and ~~[such]~~ the court may grant in conformity with section 803-46 an order authorizing or approving the interception of wire, oral, or electronic communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made, if the interception might provide or has provided evidence of:

- (1) Murder;
- (2) Kidnapping;
- (3) Labor trafficking in the first degree;
- (4) Labor trafficking in the second degree;
- (5) Felony criminal property damage involving the danger of bodily injury as defined in section 707-700;
- (6) Distribution of dangerous, harmful, or detrimental drugs;
- (7) Conspiracy to commit one or more of the above; or
- (8) Involvement of organized crime and any of the following felony offenses:
  - (A) Extortion;
  - (B) Bribery of a juror, witness, or police officer;
  - (C) Receiving stolen property;
  - (D) Gambling; ~~[and]~~
  - (E) Money laundering~~[-]~~; and
  - (F) Sex trafficking.

SECTION 19. Section 846E-10, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) Tier 2 offenses. A covered offender who has maintained a clean record for the previous twenty-five years, excluding any time the offender was in custody or civilly committed, and who has substantially complied with the registration requirements of this chapter for the previous twenty-five years, or for the portion of that twenty-five years that this chapter has been applicable, and who is not a repeat covered offender may petition the court, in a civil proceeding, for termination of registration requirements; provided that the covered offender's most serious covered offense is one of the following:

- (1) Any offense set forth in section 707-730(1)(c), 707-731(1)(c), 707-732(1)(c), 707-750, 707-751, ~~[712-1202(1)(b)],~~ 712-1202, or 712-1203(1)(b), as section 712-1203(1)(b) read prior to its amendment pursuant to section 9 of Act 147, Session Laws of Hawaii 2008;
- (2) An offense set forth in section 707-720; provided that the charging document for the offense for which there has been a conviction alleged intent to subject the victim to a sexual offense;
- (3) An offense set forth in section 707-756 that includes an intent to promote or facilitate the commission of another felony covered offense as defined in section 846E-1;
- (4) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1), (2), or (3);
- (5) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4); or
- (6) Any federal, military, out-of-state, tribal, or foreign offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4).

(d) Tier 1 offenses. A covered offender who has maintained a clean record for the previous ten years, excluding any time the offender was in custody or civilly committed, and who has substantially complied with the registration requirements of this chapter for the previous ten years, or for the portion of that ten years that this chapter has been applicable, and who is not a repeat covered offender may petition the court, in a civil proceeding, for termination of registration requirements; provided that the covered offender's most serious covered offense is one of the following:

- (1) Any offense set forth in section 707-732(1)(d) or (e), 707-733(1)(a), 707-752, 707-759, 711-1110.9, ~~[712-1202(1)(a)]~~ 712-1203(1), or 712-1209.1;
- (2) An offense set forth in section 707-721 or 707-722; provided that the offense involves unlawful imprisonment of a minor by someone other than a parent;
- (3) An offense set forth in section 707-757 that includes an intent to promote or facilitate the commission of another covered offense as defined in section 846E-1;
- (4) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1), (2), or (3);
- (5) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4);
- (6) Any federal, military, out-of-state, tribal, or foreign offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4); or
- (7) Any other covered offense that is not specified in subsection (a) or (c) or paragraph (1), (2), (3), (4), (5), or (6)."

SECTION 20. Section 853-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This chapter shall not apply when:

- (1) The offense charged involves the intentional, knowing, reckless, or negligent killing of another person;
- (2) The offense charged is:
  - (A) A felony that involves the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person; or
  - (B) A misdemeanor or petty misdemeanor that carries a mandatory minimum sentence and that involves the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person;
- (3) The offense charged involves a conspiracy or solicitation to intentionally, knowingly, or recklessly kill another person or to cause serious bodily injury to another person;
- (4) The offense charged is a class A felony;
- (5) The offense charged is nonprobationable;
- (6) The defendant has been convicted of any offense defined as a felony by the Hawaii Penal Code or has been convicted for any conduct that if perpetrated in this State would be punishable as a felony;
- (7) The defendant is found to be a law violator or delinquent child for the commission of any offense defined as a felony by the Hawaii Penal Code or for any conduct that if perpetrated in this State would constitute a felony;
- (8) The defendant has a prior conviction for a felony committed in any state, federal, or foreign jurisdiction;
- (9) A firearm was used in the commission of the offense charged;

- (10) The defendant is charged with the distribution of a dangerous, harmful, or detrimental drug to a minor;
- (11) The defendant has been charged with a felony offense and has been previously granted deferred acceptance of guilty plea status for a prior offense, regardless of whether the period of deferral has already expired;
- (12) The defendant has been charged with a misdemeanor offense and has been previously granted deferred acceptance of guilty plea status for a prior felony, misdemeanor, or petty misdemeanor for which the period of deferral has not yet expired;
- (13) The offense charged is:
  - (A) Escape in the first degree;
  - (B) Escape in the second degree;
  - (C) Promoting prison contraband in the first degree;
  - (D) Promoting prison contraband in the second degree;
  - (E) Bail jumping in the first degree;
  - (F) Bail jumping in the second degree;
  - (G) Bribery;
  - (H) Bribery of or by a witness;
  - (I) Intimidating a witness;
  - (J) Bribery of or by a juror;
  - (K) Intimidating a juror;
  - (L) Jury tampering;
  - (M) Promoting prostitution [~~in the second degree~~];
  - (N) Abuse of family or household member;
  - (O) Sexual assault in the second degree;
  - (P) Sexual assault in the third degree;
  - (Q) A violation of an order issued pursuant to chapter 586;
  - (R) Promoting child abuse in the second degree;
  - (S) Promoting child abuse in the third degree;
  - (T) Electronic enticement of a child in the first degree;
  - (U) Electronic enticement of a child in the second degree;
  - (V) Prostitution pursuant to section 712-1200(1)(b);
  - (W) Street solicitation of prostitution under section 712-1207(1)(b);
  - (X) Solicitation of prostitution near schools or public parks under section 712-1209;
  - (Y) Habitual solicitation of prostitution under section 712-1209.5; or
  - (Z) Solicitation of a minor for prostitution under section 712-1209.1;
- (14) The defendant has been charged with:
  - (A) Knowingly or intentionally falsifying any report required under chapter 11, part XIII with the intent to circumvent the law or deceive the campaign spending commission; or
  - (B) Violating section 11-352 or 11-353; or
- (15) The defendant holds a commercial driver's license and has been charged with violating a traffic control law, other than a parking law, in connection with the operation of any type of motor vehicle."

SECTION 21. This Act does not affect the rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 22. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 23. This Act shall take effect on July 1, 2016.

(Approved July 5, 2016.)

**ACT 207**

H.B. NO. 1907

A Bill for an Act Relating to Sexual Assault.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 844D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§844D- Sexual assault evidence; reporting.** (a) By September 1, 2016, all law enforcement agencies and departments charged with the maintenance, storage, and preservation of sexual assault evidence collection kits shall conduct an inventory of all such kits being stored by the agency or department.

(b) By September 1, 2016, each law enforcement agency and department subject to subsection (a) shall compile, in writing, a report containing the number of untested sexual assault evidence collection kits in the possession of the agency or department and the date the sexual assault evidence collection kit was collected. The reports shall be transmitted to the department of the attorney general.

(c) By December 1, 2016, the department of the attorney general shall prepare and transmit a report to the president of the senate and the speaker of the house of representatives containing the number of untested sexual assault evidence collection kits currently being stored by each county, law enforcement agency, or department and the date each untested kit was originally collected. The department of the attorney general shall involve community stakeholders in drafting the report, including representatives from each county. The report shall also provide the following information:

- (1) An explanation of the processes that were used in the past to decide which sexual assault evidence collection kits were and were not tested;
- (2) Progress made to reduce the number of untested sexual assault evidence collection kits to date;
- (3) A plan and expected timeframe for further reduction in the number of untested sexual assault evidence collection kits;
- (4) A plan for determining priority of untested sexual assault evidence collection kits and new sexual assault evidence collection kits for testing;
- (5) Processes that have been adopted or will be adopted to better track and inventory tested and untested sexual assault evidence collection kits, including their locations;
- (6) Expected outcomes from testing untested sexual assault evidence collection kits and testing new sexual assault evidence collection kits;
- (7) The criteria and process to determine which untested sexual assault evidence collection kits will be tested and the criteria and process for testing to be applied to all new sexual assault evidence collection kits;

- (8) The sites and locations of the testing of the untested sexual assault evidence collection kits and testing of new sexual assault evidence collection kits;
  - (9) Victim notification, support services, and other resources that may become necessary in connection with testing untested sexual assault evidence collection kits and new sexual assault evidence collection kits;
  - (10) The expected cost of all projected plans and processes not yet in place for testing untested sexual assault evidence collection kits and new sexual assault evidence collection kits;
  - (11) An assessment of potential funding sources, including federal grants for which applications have been, will be, or may be submitted; and
  - (12) Potential areas for further legislative action or policy changes.
- (d) Beginning July 1, 2017, all law enforcement agencies and departments shall submit new sexual assault evidence collection kits for testing in accordance with the criteria and policies established and reported by the department of the attorney general pursuant to subsection (c).
- (e) By July 1, 2018, all law enforcement agencies and departments shall complete the testing of all untested sexual assault evidence collection kits in accordance with criteria and policies established and reported by the department of the attorney general pursuant to subsection (c).
- (f) As used in this section:
- “Forensic medical examination” means an examination provided to the victim of a suspected sexually-oriented criminal offense by a health care provider for the purpose of gathering and preserving evidence of a suspected sexual assault.
- “Sexual assault evidence collection kit” means a human biological specimen or specimens collected by a health care provider during a forensic medical examination from the victim of a suspected sexually-oriented criminal offense.
- “Untested sexual assault evidence collection kit” means a sexual assault evidence collection kit that has not been submitted to a qualified laboratory for either a serology or DNA test.”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2016-2017 to initiate the testing of at least five hundred untested sexual assault evidence collection kits by an accredited forensic laboratory, in accordance with state and federal law and minimum requirements for quality assurance, by December 31, 2016, and for associated victim support services; provided that the department of the attorney general, in consultation with key stakeholders, shall make arrangements with one or more accredited forensic laboratories to test the sexual assault evidence collection kits to ensure that sexual assault evidence collection kits are analyzed and the results are entered into the Federal Bureau of Investigation Combined DNA Index System in accordance with applicable rules and procedures.

The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved July 5, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.



A Bill for an Act Relating to the University Of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the affirmative consent task force, established by Act 222, Session Laws of Hawaii 2015, reviewed and made preliminary recommendations on the University of Hawaii executive policy regarding sexual harassment, sexual assault, domestic violence, dating violence, and stalking.

The legislature finds that this issue is a matter of statewide concern that falls under its purview pursuant to article X, section 6, of the Hawaii State Constitution.

The purpose of this Act is to adopt the preliminary recommendations of the affirmative consent task force.

SECTION 2. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new section to subpart A of part I to be appropriately designated and to read as follows:

**“§304A- Campus safety and accountability.** (a) The University of Hawaii shall:

- (1) Train all University of Hawaii students and employees, including security personnel, Title IX coordinators, and residential advisors, on:
  - (A) Public Law 92-318, Title IX of the federal Education Amendments of 1972, as amended;
  - (B) The Violence Against Women Act of 1994, as amended; and
  - (C) University of Hawaii executive policies on sexual harassment, sexual assault, domestic violence, dating violence, and stalking;
- (2) Provide all existing University of Hawaii employees with the training described in paragraph (1) by July 1, 2017, and every two years thereafter;
- (3) Provide all new University of Hawaii employees with the training described in paragraph (1) no later than thirty days after the date of first employment;
- (4) Provide all students with the training described in paragraph (1) annually;
- (5) At each campus of the University of Hawaii system, designate a confidential advocate for students to confidentially discuss incidents of, and obtain information on, sexual harassment, sexual assault, domestic violence, dating violence, stalking, and related issues; provided that confidential advocates and communications received by confidential advocates shall not be exempt from any otherwise applicable mandatory reporting requirements for child and vulnerable adult neglect and abuse as provided by chapters 346 and 350;
- (6) Publicize the name, location, phone number, and email address of the confidential advocate on the website of each respective campus;
- (7) Make available to students and employees written and electronic materials and training programs concerning Title IX of the Higher Education Amendments of 1972; the Violence Against Women Act of 1994; and University of Hawaii policies concerning sexual ha-

harassment, sexual assault, domestic violence, dating violence, and stalking; and

- (8) Inform victims in writing of the right to file a police report with the appropriate county police department for investigation and assist victims in submitting the police report.

(b) All University of Hawaii faculty members are designated as "responsible employees" under Public Law 92-318, Title IX of the federal Education Amendments of 1972, as amended, and shall report any violations of University of Hawaii executive policies regarding sexual harassment, sexual assault, domestic violence, dating violence, and stalking to the Title IX coordinator of the faculty member's campus; provided that any faculty member designated as a confidential advocate pursuant to subsection (a)(5) shall not be a "responsible employee"; provided further that the confidential advocate shall annually provide general statistics to the Title IX coordinator about the number and type of incidents received by the confidential advocate.

(c) All University of Hawaii students and employees shall complete the training required under subsection (a)(1), (a)(2), (a)(3), and (a)(4) or may be subject to fines, sanctions, or other discipline, as deemed appropriated by the University of Hawaii.

(d) No later than March 31, 2017, and every two years thereafter, the University of Hawaii shall conduct a campus climate survey of all students. The University of Hawaii shall submit a report to the legislature no later than twenty days before the convening of each regular session that shall include:

- (1) A summary of the most recent campus climate survey results;
- (2) Information on the number of sexual assaults that occurred on a University of Hawaii system campus within the past five years; and
- (3) Recommendations and efforts to improve campus safety and accountability.

(e) The University of Hawaii shall establish policies and procedures to effectuate this section."

SECTION 3. (a) No later than December 31, 2016, the University of Hawaii shall revise, as necessary, all University of Hawaii executive policies regarding:

- (1) Student conduct;
- (2) Nondiscrimination;
- (3) Complaint procedures;
- (4) Campus security;
- (5) Alcohol consumption;
- (6) Housing; and
- (7) Workplace nonviolence,

that conflict with any University of Hawaii executive policy regarding sexual harassment, sexual assault, domestic violence, dating violence, and stalking, including University of Hawaii executive policy number 1.204.

(b) The University of Hawaii shall enter into memoranda of understanding with all county police departments by December 31, 2016, to govern communications and procedures for addressing sexual assaults that occur on University of Hawaii system campuses.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the University of Hawaii at Manoa to hire employees as follows:

- (1) One full-time equivalent administrator (1.0 FTE) at \$70,000; and

(2) Two full-time equivalent investigators (2.0 FTE) at \$90,000 each, to ensure compliance with Title IX of the federal Education Amendments of 1972, as amended, and the Violence Against Women Act of 1994, as amended.

The sum appropriated shall be expended by the University of Hawaii at Manoa for the purposes of this Act.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$160,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the University of Hawaii at Hilo:

(1) To hire employees as follows:

(A) One full-time equivalent administrative support staff person (1.0 FTE) at \$60,000; and

(B) One full-time equivalent educator, trainer, and investigator (1.0 FTE) at \$90,000; and

(2) \$10,000 for related travel expenses,

to ensure compliance with Title IX of the federal Education Amendments of 1972, as amended, and the Violence Against Women Act of 1994, as amended.

The sum appropriated shall be expended by the University of Hawaii at Hilo for the purposes of this Act.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the University of Hawaii community colleges to ensure compliance with Title IX of the federal Education Amendments of 1972, as amended, and the Violence Against Women Act of 1994, as amended.

The sum appropriated shall be expended by the University of Hawaii community colleges for the purposes of this Act.

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 8. New statutory material is underscored.<sup>1</sup>

SECTION 9. This Act shall take effect on July 1, 2016.

(Approved July 5, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 209**

H.B. NO. 2489

A Bill for an Act Relating to the Department of Defense.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Women have served honorably and courageously in all of America's wars and conflicts since the American Revolution. With nearly fifteen per cent of the United States Armed Forces consisting of women, the population of female veterans is increasing exponentially and is projected to exceed ten per cent of the total veteran population by the year 2020. More than thirteen thousand female veterans reside in Hawaii alone.

The circumstances and challenges faced by female veterans, as well as women on active duty, are often different from those of their male counterparts. Despite this, veterans' benefits have traditionally been designed to address the needs of male veterans.

In recognition of a growing need to improve veterans' services to address the specific needs of female veterans in such areas as medical and mental health care, child care services, housing, and financial assistance, Senate Resolution No. 6, S.D. 1 (2012) urged the United States Department of Veterans Affairs and the Hawaii office of veterans' services to develop comprehensive programs and services to address the needs of female veterans and women on active duty. In response to Senate Resolution No. 6, S.D. 1, the Hawaii office of veterans' services established the Hawaii women military veterans task force with the mission "to improve the lives of women veterans who are serving or who have served in the military, to identify and address the unique needs of women veterans, and to harness the power of women to influence change."

In 2013, after numerous meetings, the task force submitted a report to the legislature that concluded that military women face multiple interrelated complex problems, including a high rate of military sexual trauma, and for female veterans, the related reentry issues of adequate health care, high rates of post-traumatic stress disorder, homelessness, and joblessness.

Furthermore, with the recent Department of Defense announcement to allow women in all front-line combat jobs, including infantry, artillery, armor, and special operations units, even more program emphasis will be needed when these military women eventually leave the service and become veterans.

The legislature finds that one way to help address the various problems and needs of veterans is to establish and fully fund a veterans services counselor IV position within the office of veterans' services to assist all veterans, with a primary focus on female veterans who served on active duty.

The purpose of this Act is to appropriate funds for:

- (1) The establishment of one full-time permanent veterans services counselor IV position in the office of veterans' services; and
- (2) The Vietnam veterans fiftieth anniversary commemoration.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,772 or so much thereof as may be necessary for fiscal year 2016-2017 for the establishment of one full-time equivalent (1.00 FTE) permanent veterans services counselor IV position in the office of veterans' services to address the various problems and needs of all veterans, with a primary focus on female veterans, who served on active duty for the full period they were activated.

The sum appropriated shall be expended by the department of defense for the purposes of this Act.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$200,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the Vietnam veterans fiftieth anniversary commemoration.

The sum appropriated shall be expended by the department of defense for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved July 5, 2016.)

A Bill for an Act Relating to Hunting.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the enhancement and maintenance of sustainable public hunting opportunities for subsistence and recreational purposes are of critical importance to the State and its people. A coordinated resource management effort involving stakeholders is needed to prevent and offset the loss of public hunting areas and hunter opportunities on any island of the State and expeditiously find replacement land for hunting.

The purpose of this Act is to establish a game management advisory commission to serve in an advisory capacity to the board of land and natural resources.

SECTION 2. Chapter 183D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§183D- Game management advisory commission.** (a) There is established within the department a game management advisory commission, which shall serve in an advisory capacity to the board. The game management advisory commission shall consist of nine members to be appointed by the governor in the manner provided in section 26-34. Membership on the game management advisory commission shall include:

- (1) One member from the county of Kauai;
- (2) Three members from the county of Maui, with one member from each of the islands of Maui, Lanai, and Molokai;
- (3) Two members from the county of Hawaii, with one member from east Hawaii and one member from west Hawaii;
- (4) One member from the city and county of Honolulu;
- (5) One at-large member; and
- (6) The chairperson of the board of land and natural resources or the chairperson's designated representative, who shall serve as an ex officio voting member;

provided that each member, other than the chairperson of the board, shall be a hunter licensed in the State under this chapter and shall have leadership experience in working directly with local hunter or shooting organizations; at least one member shall have knowledge, experience, and expertise in the area of native Hawaiian cultural practices; and no more than three members shall represent, be employed by, or be under contract to any sector of government.

(b) The game management advisory commission shall select its own chairperson from among its members. The members shall receive no compensation for their services on the game management advisory commission but shall be entitled to reimbursement for necessary expenses, including travel expenses, while attending meetings and while in the discharge of their duties.

(c) The game management advisory commission may recommend policies and criteria regarding the management, protection, and promotion of public hunting in Hawaii and may recommend amendments to existing department policies and procedures relating to hunting, particularly regarding this chapter and chapters 122, 123, and 124 of title 13, Hawaii Administrative Rules.

(d) The game management advisory commission shall:

- (1) Consult and advise the board on any matter affecting hunting, including proposed rules and regulations;
- (2) Assist in the evaluation and development of game management plans as appropriate or required and any changes to those plans as necessary;

- (3) Assist in establishing criteria to be used in determining whether an area is suitable for hunting;
- (4) Advise on studies of areas for sustainable yield game production or enhancement;
- (5) Recommend to the board the areas that are suitable for game production or enhancement;
- (6) Recommend policies and criteria regarding the management, protection, and permitted uses of areas that are used for hunting;
- (7) Assist the department in developing ways and means to extend and strengthen game management areas, other designated hunting areas, and mixed-use areas within the State;
- (8) In carrying out its duties, consult the most comprehensive up-to-date compilation of scientific data;
- (9) Make recommendations relating to the process of hunting rules modification;
- (10) Collaborate with agencies and other persons who gather information and implement hunting programs and data;
- (11) Take testimony and acquire information as it desires and communicate its findings and recommendations to the board; and
- (12) Assist the department on policies, plans, and procedures related to the control of game mammals, including aerial shooting activities by the department and its contractors.

(e) Any action taken by the game management advisory commission shall be validated by a simple majority of its members. Five members shall constitute a quorum.

(f) All meetings of the game management advisory commission shall be conducted subject to chapter 92.

(g) Except as otherwise provided in this chapter, the game management advisory commission shall be subject to sections 26-34, 26-35, 26-35.5, and 26-36.

(h) The department shall provide administrative support to the game management advisory commission. Federal moneys and other moneys that become available to the department may be used to offset administrative costs incurred by the department for purposes of this subsection.

(i) The game management advisory commission shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2017, and each regular session thereafter, on its efforts to comply with this section, including a summary of its activities during the year preceding the regular session for which the report was prepared.

(j) The game management advisory commission may adopt rules pursuant to chapter 91 to implement this section."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$40,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the establishment of a game management advisory commission pursuant to this Act.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved July 5, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Aquatic Mitigation Banks.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that aquatic mitigation banks restore, create, enhance, or preserve aquatic habitats or resources to recover the ecological functions, services, and values of aquatic resources lost by adverse impacts to other similar aquatic habitats. The federal government and at least twenty-eight states have developed successful mitigation bank guidelines and programs. Mitigation banks would serve as a mechanism to restore or replace aquatic resources and ecological functions of aquatic habitats either prospectively or after they have been damaged.

The purpose of this Act is to authorize the department of land and natural resources to establish and operate aquatic mitigation banks to restore, create, enhance, or preserve aquatic habitats or resources as compensatory mitigation where a person is required to provide compensatory mitigation prospectively and the use of banked mitigation is approved by the agency requiring mitigation, or for past damages to aquatic habitats or resources.

SECTION 2. Chapter 187A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . AQUATIC MITIGATION BANKS**

**§187A- Aquatic mitigation banking.** The department is authorized to establish and operate aquatic mitigation banks, the purpose of which shall be to restore, create, enhance, or preserve aquatic habitats or resources as compensatory mitigation where a person is required to provide compensatory mitigation prospectively and the use of banked mitigation is approved by the agency requiring mitigation, or for past damages to aquatic habitats or resources.

**§187A- Rules.** The department may adopt rules pursuant to chapter 91 necessary for the purposes of this part.”

SECTION 3. This Act shall take effect upon its approval.

(Approved July 5, 2016.)

A Bill for an Act Relating to Social Workers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that social workers in Hawaii who are working to complete their licensed clinical social worker requirements must complete three thousand hours of supervised work experience, one hundred hours of which must be by direct face-to-face supervision. The legislature further finds that certain social workers, particularly those living on the less populated islands, in rural areas, and those employed by the United States Department of Veterans Affairs, may experience challenges meeting the direct face-to-face supervision requirement. This is especially true for social workers in rural areas, as

there are a limited number of rural social workers who are qualified to provide supervision for applicants for licensure as clinical social workers.

The legislature additionally finds that telehealth has become standard practice in social work and the mental health field and should be permitted as a means of meeting the supervision requirements needed for licensure as a clinical social worker.

Accordingly, the purpose of this Act is to clarify the supervision requirements for licensure of clinical social workers, including permitting the option to fulfill all or part of the face-to-face supervision requirements through supervision via a video conference service that is compliant with all federal and state privacy, security, and confidentiality laws, including the Health Insurance Portability and Accountability Act of 1996.

SECTION 2. Section 467E-7, Hawaii Revised Statutes, is amended to read as follows:

**“§467E-7 Licensing requirements.** Every applicant for a license as a social worker shall submit evidence satisfactory to the director that the applicant meets the following requirements:

- (1) For the licensed bachelor social worker, the applicant:
  - (A) Holds a bachelor's degree from a college or university in a social work program accredited by or deemed to be equivalent to a program accredited by the Council on Social Work Education; and
  - (B) Has passed the basic level national examination given by the Association of Social Work Boards;
- (2) For the licensed social worker, the applicant:
  - (A) Holds a master's degree from a college or university in a social work program accredited by or deemed to be equivalent to an accredited program by the Council on Social Work Education or a doctoral degree from a doctoral degree program in social work accredited by the Western Association of Schools and Colleges or a comparable regional accreditation body; and
  - (B) Has passed the intermediate or higher level national examination given by the Association of Social Work Boards; and
- (3) For the licensed clinical social worker, the applicant:
  - (A) Has met the educational requirements in paragraph (2);
  - (B) Has passed the clinical level national examination given by the Association of Social Work Boards; ~~and~~
  - (C) Has provided evidence of successful completion of at least three thousand hours of post masters clinical social work experience under supervision completed within no fewer than two years, but within no more than five years. Clinical social work experience shall include a minimum of two thousand hours of assessment, clinical diagnosis, and psychotherapy; no more than a maximum of nine hundred hours of client-centered advocacy, consultation, and evaluation; and at least one hundred hours of ~~[direct face-to-face] supervision[-]~~ as follows:
    - (i) At least sixty of the one hundred hours of direct face-to-face supervision shall have been individualized supervision [and the remaining]; and
    - (ii) Not more than forty hours of direct face-to-face supervision may have been under small group (up to six supervisees) supervision[-; provided that:].



An applicant who submits evidence of certification as a qualified clinical social worker or diplomate in clinical social work by the National Association of Social Workers or as a board certified diplomate by the American Board of Examiners shall be deemed to have satisfied the experience requirements of this subparagraph:

(D) For the purposes of subparagraph (C), shall have had clinical supervision as follows:

- (i) The supervisor shall have been a licensed clinical social worker with at least four thousand five hundred hours of post masters clinical social work experience;
- (ii) For the first five years after July 1, 2004, the following individuals shall be deemed to have satisfied the requirements of a supervisor: a person with a master's degree in social work with at least four thousand five hundred hours post masters clinical social work experience; an individual who holds a diplomate in clinical social work or a board certified diplomate certification; or a board certified psychiatrist, psychologist, advanced practice registered nurse who has a minimum of four thousand five hundred hours of post masters clinical experience in assessment, clinical diagnosis, and psychotherapy; and
- (iii) Supervision shall have ~~[occurred in an agency setting that provides]~~ included review of assessment, clinical diagnosis, and psychotherapy[-

~~An applicant who submits evidence of certification as a qualified clinical social worker or diplomate in clinical social work by the National Association of Social Workers or as a board certified diplomate by the American Board of Examiners shall be deemed to have satisfied the experience requirements of this subparagraph-]; and~~

(E) In collaboration with the supervisor, may elect to fulfill some or all of the supervision requirements set forth in subparagraph (C) through face-to-face supervision that is conducted electronically through a video conference service that is compliant with all federal and state privacy, security, and confidentiality laws, including the Health Insurance Portability and Accountability Act of 1996. Prior to making such an election, it is incumbent upon the applicant to review the laws and rules of other jurisdictions to determine the impact, if any, that electronic supervision may have on license by endorsement in other states."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 6, 2016.)

## ACT 213

S.B. NO. 2811

## A Bill for an Act Relating to Parental Rights.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Prior to the termination of parental rights with respect to a child who was conceived as a result of a sexual assault perpetrated by that parent, Hawaii requires the natural parent to have been convicted of the rape or sexual assault in a court of competent jurisdiction in any state. In May 2015, President Obama signed the Rape Survivor Child Custody Act (Act), Public Law No. 114-22, which provides increased funding to states that allow women to petition for the termination of parental rights upon a finding supported by clear and convincing evidence that the child was conceived as a result of an act of sexual assault. In the Act, Congress found that sexual assault is one of the most under-prosecuted serious crimes and, even when prosecuted, criminal conviction occurs in less than five per cent of prosecutions. Congress also noted that the Supreme Court has established that the clear and convincing evidence standard satisfies due process rights for proceedings to terminate or restrict parental rights, *Santosky v. Kramer*, 455 U.S. 745 (1982) and the clear and convincing evidence standard is the most common standard for the termination of parental rights among all United States jurisdictions. Finally, Congress found that a perpetrator of sexual assault may attempt to avoid prosecution by coercing the survivor with threats to obtain custody of the child or to assert parental rights, or may use the issue of parental rights to otherwise harass, intimidate, or manipulate the survivor.

SECTION 2. Section 571-61, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Involuntary termination.

- (1) The family courts may terminate the parental rights in respect to any child as to any legal parent:
  - (A) Who has deserted the child without affording means of identification for a period of at least ninety days;
  - (B) Who has voluntarily surrendered the care and custody of the child to another for a period of at least two years;
  - (C) Who, when the child is in the custody of another, has failed to communicate with the child when able to do so for a period of at least one year;
  - (D) Who, when the child is in the custody of another, has failed to provide for care and support of the child when able to do so for a period of at least one year;
  - (E) Whose child has been removed from the parent’s physical custody pursuant to legally authorized judicial action under section 571-11(9), and who is found to be unable to provide now and in the foreseeable future the care necessary for the well-being of the child;
  - (F) Who is found by the court to be mentally ill or intellectually disabled and incapacitated from giving consent to the adoption of or from providing now and in the foreseeable future the care necessary for the well-being of the child; or
  - (G) Who is found not to be the child’s natural or adoptive father.
- (2) The family courts may terminate the parental rights in respect to any minor of any natural but not legal father who is an adjudicated,

presumed or concerned father under chapter 578, or who is named as the father on the child's birth certificate:

- (A) Who falls within ~~[subparagraph (A),]~~ paragraph (1)(A), (B), (C), (D), (E), or (F) [of paragraph (1)];
  - (B) Whose child is sought to be adopted by the child's stepfather and the stepfather has lived with the child and the child's legal mother for a period of at least one year;
  - (C) Who is only a concerned father who has failed to file a petition for the adoption of the child or whose petition for the adoption of the child has been denied; or
  - (D) Who is found to be an unfit or improper parent or to be financially or otherwise unable to give the child a proper home and education.
- (3) In respect to any proceedings under paragraphs (1) and (2), the authority to terminate parental rights may be exercised by the court only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born and the court has conducted a hearing of the petition. A copy of the petition, together with notice of the time and place of the hearing thereof, shall be personally served at least twenty days prior to the hearing upon the parent whose rights are sought to be terminated. If personal service cannot be effected within the State, service of the notice may be made as provided in section 634-23 or 634-24.
- (4) The family courts may terminate the parental rights in respect to any child as to any natural father who is not the child's legal, adjudicated, presumed or concerned father under chapter 578.
- (5) The family courts may terminate the parental rights in respect to any child of any natural parent upon a finding by clear and convincing evidence that the natural parent ~~[has been convicted in a court of competent jurisdiction in any state of rape or]~~ committed sexual assault of the other natural parent, or an equivalent offense under the laws of another state, territory, possession, or Native American tribe where the offense occurred, and the child was conceived as a result of the ~~[rape or]~~ sexual assault perpetrated by the parent whose rights are sought to be terminated; provided that:
- (A) The court shall accept, as conclusive proof of the sexual assault, a guilty plea or conviction of the child's natural parent for the sexual assault, or an equivalent offense under the laws of another state, territory, possession, or Native American tribe where the offense occurred, of the other natural parent;
  - (B) Termination shall mean, when used with respect to parental rights in this paragraph, a complete and final termination of the parent's right to custody of, guardianship of, visitation with, access to, and inheritance from a child;
- ~~[(A)]~~ (C) The termination of parental rights shall not affect the obligation of the ~~[convicted]~~ child's natural parent to support the child;
- ~~[(B)]~~ (D) The court may order the ~~[convicted]~~ child's natural parent to pay child support;
- (E) It is presumed that termination of parental rights is in the best interest of the child if the child was conceived as a result of the sexual assault;

~~[(C)]~~ (F) This paragraph shall not apply if subsequent to the date of ~~[conviction,]~~ the sexual assault, the ~~[convicted]~~ child's natural parent and custodial natural parent cohabit and establish a mutual custodial environment for the child; and

~~[(D)]~~ (G) The custodial natural parent may petition the court to reinstate the ~~[convicted]~~ child's natural parent's parental rights terminated pursuant to this paragraph.

Such authority may be exercised under this chapter only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born, and the court has conducted a hearing of the petition.

If the mother of the child files with the petition an affidavit representing that the identity or whereabouts of the child's father is unknown to her or not ascertainable by her or that other good cause exists why notice cannot or should not be given to the father, the court shall conduct a hearing to determine whether notice is required.

If the court finds that good cause exists why notice cannot or should not be given to the child's father, and that the father is neither the legal nor adjudicated nor presumed father of the child, nor has he demonstrated a reasonable degree of interest, concern, or responsibility as to the existence or welfare of the child, the court may enter an order authorizing the termination of the father's parental rights and the subsequent adoption of the child without notice to the father."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 6, 2016.)

## ACT 214

H.B. NO. 1726

A Bill for an Act Relating to Murder.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 707-701, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of murder in the first degree if the person intentionally or knowingly causes the death of:

- (a) More than one person in the same or separate incident;
- (b) A law enforcement officer, judge, or prosecutor arising out of the performance of official duties;
- (c) A person known by the defendant to be a witness in a criminal prosecution and the killing is related to the person's status as a witness;
- (d) A person by a hired killer, in which event both the person hired and the person responsible for hiring the killer shall be punished under this section;
- (e) A person while the defendant was imprisoned;
- (f) A person from whom the defendant has been restrained, by order of any court, including an ex parte order, from contacting, threatening,

- or physically abusing pursuant to chapter 586;
- (g) A person who is being protected by a police officer ordering the defendant to leave the premises of that protected person pursuant to section 709-906(4), during the effective period of that order; [øø]
- (h) A person known by the defendant to be a witness in a family court proceeding and the killing is related to the person's status as a witness[-]; or
- (i) A person whom the defendant restrained with intent to:
  - (i) Hold the person for ransom or reward; or
  - (ii) Use the person as a shield or hostage."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 6, 2016.)

## ACT 215

H.B. NO. 2090

A Bill for an Act Relating to Land Court.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The joint legislative investigative committee established pursuant to Senate Concurrent Resolution No. 226, regular session of 2007, identified serious shortcomings relating to the bureau of conveyances. Act 120, Session Laws of Hawaii 2009 (Act 120), was adopted in response to the findings of the committee. Act 120 was intended to ease the backlog in land court recording and registration by, among other things, transferring fee simple time share interests from the land court system to the regular system.

Act 120 requires that, upon presentation of a deed or any other instrument affecting a fee time share interest, the assistant registrar of the land court shall not file the same in the land court. Rather, the assistant registrar shall:

- (1) Update the certificate of title for all fee time share interests in the time share plan;
- (2) Record in the regular system the updated certificate of title for each fee time share interest in the time share plan;
- (3) Record in the regular system the deed or other instrument presented for recording; and
- (4) Cancel the certificate of title for each fee time share interest in the time share plan.

Once the certificate of title for a fee time share interest is recorded, that time share interest is no longer subject to the land court pursuant to chapter 501, Hawaii Revised Statutes. From then on, all deeds and other instruments affecting the fee time share interest shall be recorded in the regular system. This process is known as deregistration of fee time share interests.

Through Act 121, Session Laws of 2012<sup>1</sup> (Act 121), the legislature found that the task of updating and recording the certificates of title for all fee time

share interests concurrently had exceeded the capacity of the land court, particularly in light of the approximately three-year backlog of land court recordings and registration existing at the time that Act 120 took effect.

Accordingly, Act 121 was adopted to amend the deregistration procedure by removing fee time share interests from the land court system as of July 1, 2012. The assistant registrar was charged with the obligation to certify the certificates of title for all fee time share interests in the ordinary course of business. This was intended to lighten the load of the assistant registrar in the preparation and certification of the certificates of title for fee time share interests without delaying the removal of the fee time share interests from the land court system.

However, the requirement that the assistant registrar certify all of the remaining uncertified fee time share certificates of title remains burdensome in light of resource limitations and the demands of new transactions on the office of the assistant registrar.

The purpose of this Act is to streamline the operations of the office of the assistant registrar of the land court by removing the requirement that the assistant registrar certify all pending or otherwise uncertified certificates of title for fee time share interests, all of which were removed from the land court system as of July 1, 2012. This Act is also intended to preserve the ability of the assistant registrar to complete and certify an uncertified certificate of title to clarify and preserve the rights and interests of interested parties under the State's land court law, up to the date and time of deregistration of the property.

SECTION 2. Section 501-20, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

“Certified fee time share interest certificate of title” means a certificate of title for a fee time share interest that has been updated and approved by the assistant registrar in accordance with section 501-261(1).

“Uncertified fee time share interest certificate of title” means a certificate of title issued for a fee time share interest that has not been updated and approved by the assistant registrar in accordance with section 501-261(1).”

SECTION 3. Section 501-261, Hawaii Revised Statutes, is amended to read as follows:

**“§501-261 Deregistration of fee time share interests.** The certificate of title for each fee time share interest shall be canceled effective as of the date and time of deregistration of ~~[such]~~ the fee time share interest. Notwithstanding the provisions of section 501-261 in existence prior to July 1, 2012, a fee time share interest for which a certificate of title was not recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter prior to July 1, 2012, shall be deregistered on July 1, 2012, at 12:01 a.m.

- (1) ~~[Beginning on]~~ From and after July 1, 2012, ~~[and continuing for so long as shall be reasonably necessary in the ordinary course of business,]~~ the assistant registrar ~~[shall]~~ may, and upon a written request to the assistant registrar by a party in interest with respect to a certificate of title, the assistant registrar shall:

- (A) Note on the certificate of title for each fee time share interest all documents and instruments affecting the fee time share interest:

- (i) That were or are registered as of a date and time prior to the date and time of deregistration of the fee time share interest; and

- (ii) That were not yet noted on the certificate of title of the fee time share interest as of the earlier to occur of: the date and time of deregistration thereof; or the date and time of cancellation of the certificate of title; and
- (B) Certify ~~[each]~~ the certificate of title.
- (2) Section 501-196 shall apply to a certificate of title updated pursuant to paragraph (1) upon approval of the same by the assistant registrar, which approval shall be evidenced by a certification of the assistant registrar endorsed upon the certificate of title. A certificate of title for a fee time share interest, including but not limited to a certificate of title recorded prior to July 1, 2012, pursuant to part II of this chapter ~~[501]~~, shall not be considered completed or approved, and shall be subject to modification by the assistant registrar, at any time prior to certification thereof by the assistant registrar. Subsequent to the certification, the certificate of title for a fee time share interest may only be modified pursuant to section 501-196 or as otherwise provided in this chapter.
- (3) Upon certification of the certificate of title for a fee time share interest by the assistant registrar, the assistant registrar shall mark the certificate of title "canceled", note the cancellation of the certificate of title in the registration book, and notify the court and the state surveyor of the cancellation. The registrar shall thereupon be authorized to file a record of the cancellation in the application or consolidation file, and the state surveyor shall then be authorized to annotate the land court map or maps by identifying thereon the deregistered land and noting thereon the bureau of conveyances document number of the canceled certificate. The assistant registrar may adopt procedures, if any, as it may deem appropriate to reflect the cancellation of the uncertified fee time share interest certificates of title and the state surveyor may annotate the land court map or maps by identifying thereon the deregistration of land covered by uncertified fee time share certificates of title. Regardless of the date upon which any such administrative acts are performed, the cancellation of the certificate of title for a fee time share interest shall be effective as of the date and time of deregistration of that fee time share interest.
- (4) If only part of the land described in the certificate of title consists of a fee time share interest, then upon the petition of the registered owner of that portion of the registered land not constituting a fee time share interest, a new certificate of title shall be issued to ~~[such]~~ the owner for that portion of the registered land not constituting a fee time share interest. If registered land is held in the condominium form of ownership, then for purposes of this subsection each condominium apartment or condominium unit for which a separate certificate of title has been issued shall be treated as if it were a separate parcel of registered land.
- (5) Except as provided in paragraph (4), no order of court shall be required prior to or in connection with the performance of any of the foregoing actions~~[-]~~ or to reflect or effect the cancellation of the certificate of title for a fee time share interest or otherwise to reflect or effect the withdrawal of the fee time share interest from the operation of this chapter."

SECTION 4. Section 501-262, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Neither voluntary deregistration of land other than a fee time share interest nor the mandatory deregistration of any fee time share interest pursuant to part II of this chapter, whether by recordation of a certificate of title in the bureau of conveyances prior to July 1, 2012, or by operation of law thereafter, shall disturb the effect of any proceedings in the land court where the question of title has been determined. All proceedings had in connection with the registration of title that relate to the settlement or determination of title to deregistered land before ~~[a certificate of title for land other than a fee time share interest is recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter or a certificate of title for a fee time share interest is certified]~~ the date and time of deregistration, and all provisions of this chapter that relate to the status of the title, shall have continuing force and effect with respect to the period of time that title remained under the land court system. An uncertified fee time share interest certificate of title shall have the same force and effect as a certified fee time share interest certificate of title; provided that the assistant registrar shall have the right to correct and complete the uncertified fee time share interest certificate of title prior to certification thereof; provided further that upon certification thereof, section 501-261(2) shall apply. Those provisions giving rise to a right of action for compensation from the State, including any limits on and conditions to the recovery of compensation and the State’s rights of subrogation with respect thereto, shall also continue in force and effect with respect to the period of time that title remained under the land court system.”

SECTION 5. Section 501-263, Hawaii Revised Statutes, is amended to read as follows:

“**§501-263 Effect of deregistration in specific cases.** Notwithstanding section 501-262(a)(3), the following documents, instruments, and papers need not be registered pursuant to this chapter to be effective and shall be recorded in the bureau of conveyances pursuant to chapter 502:

- (1) Any document, instrument, or paper assigning, extending, continuing, dissolving, discharging, releasing in whole or in part, reducing, canceling, extinguishing, or otherwise modifying or amending any of the following documents, instruments, or papers that have been registered pursuant to this chapter and that pertain to deregistered land:
  - (A) A mortgage;
  - (B) An agreement of sale for the sale of a fee time share interest or interest in other deregistered land. After the ~~[recordation of the certificate of title, any]~~ date and time of deregistration of a fee time share interest or interest in other deregistered land, the interest in any deregistered land covered by the agreement of sale shall be subject to section 502-85 and shall not be subject to section 501-101.5;
  - (C) A correction deed, correction mortgage, or other document, instrument, or paper correcting a document, instrument, or paper registered pursuant to this chapter;
  - (D) A lien or claim of lien on a fee time share interest held or claimed by a time share owners association, an association of apartment owners, or other homeowners’ association or a lien or claim on an interest in other deregistered land held by a lienor or person claiming a lien;



- (E) A lease that demises a fee time share interest or interest in other deregistered land;
  - (F) An order of court, attachment, writ, or other process against a fee time share interest or interest in other deregistered land;
  - (G) A mechanic's or materialman's lien or other lien upon a fee time share interest or interest in other deregistered land;
  - (H) A lis pendens or notice of pendency of action, notice, affidavit, demand, certificate, execution, copy of execution, officer's return, or other instrument relating to a fee time share interest or interest in other deregistered land and otherwise required or permitted to be recorded or registered in connection with the enforcement or foreclosure of any lien, whether by way of power of sale pursuant to chapter 667 or otherwise; or
  - (I) A power of attorney given by the owner of a fee time share interest or interest in other deregistered land or the vendor or vendee under an agreement of sale for the sale of a fee time share interest or interest in other deregistered land, a mortgagee or other lienor having a mortgage or lien upon a fee time share interest or interest in other deregistered land, or another party holding a claim or encumbrance against or an interest in a fee time share interest or interest in other deregistered land;
- (2) A lis pendens or notice of pendency of action, notice, affidavit, demand, certificate, execution, copy of execution, officer's return, or other instrument relating to a fee time share interest or interest in other deregistered land and otherwise required or permitted to be recorded or registered in connection with the enforcement or foreclosure of any lien, whether by way of power of sale pursuant to chapter 667 or otherwise; and
- (3) Any declaration annexing property to, any declaration deannexing property from, any amendment or supplement to, correction of, or release or termination of, any of the following documents, instruments, or papers that have been registered pursuant to this chapter and that pertain to deregistered land:
- (A) A declaration of covenants, conditions, restrictions, or similar instrument, by whatever name denominated, establishing or governing a time share plan, or the bylaws of a time share owners association, notice of time share plan, or other time share instrument;
  - (B) A declaration of condominium property regime or similar declaration by whatever name denominated, the bylaws of the association of apartment owners, the condominium map, any declaration of merger and any instrument effecting a merger; provided that if only some of the condominium apartments are included in the time share plan, then it shall be necessary to register, and to note on the certificate of title for any apartment not included in the time share plan:
    - (i) Any declaration annexing property to the condominium property regime;
    - (ii) Any declaration deannexing property from the condominium property regime;
    - (iii) Any instrument effecting a merger of two or more condominium projects or two or more phases of a condominium project; and

- (iv) Any document, instrument, or paper amending, supplementing, correcting, releasing, or terminating any of the documents listed in ~~[subparagraph (B)(i) through]~~ clauses (i) to (iii), the declaration of condominium property regime, the bylaws of the association of apartment owners, the condominium map, or any declaration of merger; and
- (C) A declaration of covenants, conditions, restrictions, or similar instrument, by whatever name denominated, the bylaws of any homeowners association, any declaration of annexation or deannexation, any amendments and supplements thereto, and any cancellation or extinguishment thereof, any declaration of merger and any instrument effecting a merger; provided that if only some of the parcels of land covered by the declaration constitutes deregistered land, and if one or more of the remaining parcels constitute registered land, then it shall be necessary to register, and to note on the certificate of title for any registered land:
  - (i) Any declaration annexing property to the declaration;
  - (ii) Any declaration deannexing property from the operation of the declaration; and
  - (iii) Any document, instrument, or paper amending, supplementing, correcting, releasing, or terminating any of the documents listed in ~~[subparagraph (C)(i)]~~ clause (i) or (ii), the declaration of covenants, conditions, restrictions, or the bylaws of the homeowners association."

SECTION 6. Section 501-264, Hawaii Revised Statutes, is amended to read as follows:

**"§501-264 Chain of title of deregistered land.** ~~[(a) A certificate of title for land other than a fee time share interest recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter, or certified by the assistant registrar in the case of a fee time share interest, shall constitute a new chain of record title in the registered owner of any estate or interest as shown on the certificate of title so recorded or certified, subject only to the following:]~~  
(a) The chain of record title in the registered owner of any estate or interest in deregistered land shall, as of the date and time of deregistration, be subject only to the following and to the items described in subsection (d):

- (1) In the case of land other than a fee time share interest, the estates, mortgages, liens, charges, instruments, documents, and papers noted on the certificate of title recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter;
- (2) In the case of a fee time share interest covered by a certified fee time share interest certificate of title, the estates, mortgages, liens, charges, instruments, documents, and papers noted on the certified fee time share interest certificate of title; and
- (3) In the case of a fee time share interest covered by an uncertified fee time share interest certificate of title, the estates, mortgages, liens, charges, instruments, documents, and papers noted or deemed to be noted on the uncertified fee time share interest certificate of title, as set forth in subsection (b).

(b) The following shall, for purposes of part II of this chapter, be deemed to be noted on the uncertified fee time share interest certificate of title for a given fee time share interest:

- (1) The estates, mortgages, liens, charges, instruments, documents, and papers noted in the last certificate of title certified by the assistant registrar for the registered land of that fee time share interest; and
- (2) The estates, mortgages, liens, charges, instruments, documents, and papers registered with respect to the registered land of that fee time share interest, which registration occurred:
  - (A) After the date of certification of the last certified certificate of title for the registered land of the fee time share interest; and
  - (B) Prior to the earlier to occur of: the date and time of cancellation of the fee time share interest certificate of title; or July 1, 2012, including but not limited to any estates, liens, charges, covenants, conditions, easements, restrictions, agreements, reservations, limitations, interests, or other continuing provisions contained or reserved in the deed conveying the fee time share interest to the registered owner, whether or not identified in the uncertified fee time share interest certificate of title.
- (c) Nothing in subsection (b) is intended to alter the effect of any instruments, documents, or papers identified in subsection (b)(2) on the items noted in the certificate of title described in subsection (b)(1).
- (d) As of the date and time of deregistration, the chain of title for deregistered land shall be subject only to the items described in subsection (a) and, in the case of a fee time share interest covered by an uncertified fee time share interest certificate of title, in subsection (b), and to the following:
  - (1) The estates, mortgages, liens, charges, instruments, documents, and papers [noted on the certificate of title so recorded or certified];
    - (A) Noted on the certificate of title recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter, in the case of land other than a fee time share interest;
    - (B) Noted on the certified fee time share interest certificate of title, in the case of a fee time share interest for which the assistant registrar issued a certified fee time share interest certificate of title; or
    - (C) Noted or deemed to be noted on the uncertified fee time share interest certificate of title, in the case of all other fee time share interests;
  - (2) Liens, claims, or rights arising or existing under the laws or Constitution of the United States, which the statutes of this State cannot require to appear of record in the registry; provided that notices of liens for internal revenue taxes payable to the United States, and certificates affecting the liens, shall be deemed to fall within this paragraph only if the same are recorded in the bureau of conveyances as provided by chapter 505;
  - (3) Unpaid real property taxes assessed against the land and improvements covered by the certificate of title [as recorded or certified,] for the deregistered land, with interest, penalties, and other additions to the tax, which, unless a notice is filed and registered as provided by county real property tax ordinance, shall be for the period of three years from and after the date on which the lien attached, and if proceedings for the enforcement or foreclosure of the tax lien are brought within the period, until the termination of the proceedings or the completion of the tax sale;
  - (4) State tax liens, if the same are recorded in the bureau of conveyances as provided by section 231-33;

- (5) Any public highway, or any private way laid out under the provisions of law, when the certificate of title does not state that the boundary of the way has been determined;
- (6) Any lease, coupled with occupancy, for a term not exceeding one year; provided that the priority of the unrecorded lease shall attach only at the date of the commencement of the unrecorded lease and expire one year from the date or sooner if so expressed;
- (7) Any liability to assessments for betterments, or statutory liability that may attach to land as a lien prior to or independent of, the recording or registering of any paper of the possibility of a lien for labor or material furnished in the improvement of the land; provided that the priority of any liability and the lien therefor (other than for labor and material furnished in the improvement of the land, which shall be governed by section 507-43) shall cease and terminate three years after the liability first accrues unless notice thereof, signed by the officer charged with collection of the assessments or liability, setting forth the amount claimed, the date of accrual, and the land affected, is recorded in the bureau of conveyances pursuant to chapter 502 within the three-year period; and provided further that if there are easements or other rights, appurtenant to a parcel of deregistered land, which for any reason have failed to be deregistered, the easements or rights shall remain so appurtenant notwithstanding the failure, and shall be held to pass with the deregistered land until cut off or extinguished in any lawful manner;
- (8) The possibility of reversal or vacation of the decree of registration upon appeal;
- (9) Any encumbrance not required to be registered as provided in sections 501-241 to 501-248 and relating to a leasehold time share interest or leasehold interest in deregistered land; and
- (10) Child support liens that are created pursuant to order or judgment filed through judicial or administrative proceeding in this State or in any other state, the recording of which shall be as provided by chapter 576D.

[(b)] (e) For purposes of this section, an encumbrance shall be deemed sufficiently noted on a certificate of title if the notation:

- (1) References a document by name or number that contains an encumbrance; and
- (2) Indicates that the referenced document contains an encumbrance to which the deregistered land is subject.

[(e)] (f) All instruments, documents, and papers; noted on a certificate of title recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter (in the case of land other than a fee time share interest); noted on a certified fee time share interest certificate of title; or noted or deemed to be noted on an uncertified fee time share interest certificate title, shall have the same force and effect as if they had been recorded in the bureau of conveyances pursuant to chapter 502 as of the date, hour, and minute of reception noted on the certificate of title pursuant to section 501-107[;] or otherwise entered or required to be entered in the record of the assistant registrar pursuant to section 501-107; provided that:

- (1) No instrument, document, or paper shall have any greater or other effect after the certificate of title is recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter, as constructive notice or otherwise, than it had or acquired at the time it was registered pursuant to this chapter or made; and

- (2) Nothing in this part shall be construed as giving any greater or other effect, as constructive notice or otherwise, to any instrument, document, or paper recorded in the bureau of conveyances pursuant to chapter 502 prior to the ~~[recording of the certificate of title in the bureau of conveyances pursuant to chapter 502 and part II of this chapter as to]~~ date and time of deregistration of any registered land, than was provided by the laws of this State (including this chapter and other laws regarding registered land) in effect at the time the instrument, document, or paper was recorded.

~~[(d)]~~ (g) If a certificate of title for:

- (1) Land other than a fee time share interest recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter;
- (2) A fee time share interest certified by the assistant registrar; or
- (3) A fee time share interest that has not been certified by the assistant registrar.

relates to more than one fee time share interest or more than one interest in other deregistered land, then ~~[subsection]~~ subsections (a) to (d) shall apply to each interest separately and only those items described in ~~[subsection]~~ subsections (a) to (d) that encumbered a particular interest ~~[prior to recording of the certificate of title]~~ as of the date and time of deregistration of that interest will continue to encumber that interest after the [recording of] date and time of deregistration."

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2016.

(Approved July 6, 2016.)

Note

1. So in original.

ACT 216

H.B. NO. 2036

A Bill for an Act Relating to Conservation Districts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 183C-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The department shall render a decision on a completed application for a permit within ~~[one hundred eighty]~~ one hundred eighty days of its acceptance by the department. If within ~~[one hundred eighty]~~ one hundred eighty days after acceptance of a completed application for a permit, the department shall fail to give notice, hold a hearing, and render a decision, the owner may automatically put the owner's land to the use or uses requested in the owner's application. When an environmental impact statement is required pursuant to chapter 343, or when a contested case hearing is requested pursuant to chapter 91, the ~~[one hundred eighty]~~ one hundred eighty days ~~[may]~~ shall be extended an additional ninety days ~~[at the request of the applicant.]~~ beyond the time necessary to complete the requirements of chapter 343 or chapter 91. Any request for additional extensions by the applicant shall be subject to the approval of the board."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

## SECTION 3. This Act shall take effect upon its approval.

(Approved July 6, 2016.)

## ACT 217

H.B. NO. 2391

A Bill for an Act Relating to the Release of Certain Misdemeanants.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§353-A Release of misdemeanants to prevent overcrowding.** (a) Notwithstanding chapter 804 and any other law to the contrary and except as provided in subsection (b), the director may order the release of a misdemeanant on recognizance to prevent overcrowding when a community correctional center has reached capacity, as determined by the director. The director shall consider the circumstances and nature of the misdemeanant's charge or offense prior to ordering a release pursuant to this section. The director's order shall supersede and have the same force and effect as an order entered by a court pursuant to chapter 804. For purposes of this section and section 353-B, “misdemeanant” means a person incarcerated at a community correctional center who has been charged with a petty misdemeanor or misdemeanor, or an incarcerated person who has been sentenced pursuant to section 706-663.

(b) No person who is incarcerated under any of the following circumstances shall be eligible for release pursuant to this section:

- (1) The person has been denied bail or whose bail has been set at more than \$5,000 pursuant to chapter 804;
- (2) The person is charged with or convicted of or is on probation or parole for a serious crime, as defined in section 804-3;
- (3) The person has been arrested or convicted for abuse of family or household members, as defined in section 709-906; or
- (4) Other than the offense for which release is contemplated under this section, the person has been previously convicted of any offense, as defined in title 37, that involves injury or threat of injury to the person of another, including but not limited to sexual harassment in the fourth degree, harassment by stalking, violation of an order of protection, or violation of a temporary restraining order.

(c) The authority to release a misdemeanant pursuant to this section is granted solely for the purpose of managing the population of the community correctional centers. Nothing in this section shall be construed as granting any person the right to be released. An order releasing a misdemeanant pursuant to this section shall not operate to dismiss or otherwise terminate any charges then pending against the misdemeanant.

(d) The director shall notify the court where the case is assigned and the prosecuting attorney of the release of any misdemeanant pursuant to this section not later than forty-eight hours prior to the time of the actual release.

(e) The State or any of its officers and employees shall not be subject to any civil liability or penalty nor to any criminal prosecution for any error in judgment or discretion made in good faith and upon reasonable grounds in any action taken or omitted by the State or any of its officers and employees acting in their official capacity pursuant to this section.

(f) The director shall adopt policies and procedures for the release of misdemeanants pursuant to this section.

**§353-B Terms and conditions of release; violations; sanctions.** (a) A misdemeanor released pursuant to section 353-A shall be subject to the conditions stated in section 804-7.4. In addition, the director may impose any of the conditions that a court is authorized to impose pursuant to section 804-7.1 and shall impose any conditions contained in any court order superseded by the director's order.

(b) Intentional violations of the conditions of release shall be disposed of as provided in sections 804-7.2 and 804-7.3."

SECTION 2. Section 706-663, Hawaii Revised Statutes, is amended to read as follows:

**"§706-663 Sentence of imprisonment for misdemeanor and petty misdemeanor.** After consideration of the factors set forth in sections 706-606 and 706-621, the court may sentence a person who has been convicted of a misdemeanor or a petty misdemeanor to imprisonment for a definite term to be fixed by the court and not to exceed one year in the case of a misdemeanor or thirty days in the case of a petty misdemeanor[-], subject to earlier release pursuant to section 353-A."

SECTION 3. The director of public safety shall report to the legislature no later than twenty days prior to the convening of the regular sessions of 2018, 2019, and 2020 with respect to the implementation of this Act. The report shall include but not be limited to:

- (1) Detailed information on the number of incarcerated misdemeanants released pursuant to this Act;
- (2) The guidelines and criteria used by the director of public safety in deciding which incarcerated misdemeanants to release pursuant to this Act;
- (3) Any information regarding post-release offenses committed or allegedly committed by any misdemeanants released pursuant to this Act;
- (4) Any known incidents of interactions between released misdemeanants pursuant to this Act and law enforcement agencies due to alleged criminal behavior; and
- (5) Any other information the legislature deems relevant and requests from the director of public safety to determine whether release of certain misdemeanants is in the best interests of the State.

SECTION 4. This Act shall apply only to persons charged with offenses subject to sentencing in section 706-663, Hawaii Revised Statutes, on or after the effective date of this Act.

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on July 1, 2016, and shall be repealed on July 1, 2020; provided that section 706-663, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act.

(Approved July 6, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 218

S.B. NO. 2915

A Bill for an Act Relating to the Uniform Controlled Substances Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 329-1, Hawaii Revised Statutes, is amended as follows:

1. By adding three new definitions to be appropriately inserted and to read:

“Pharmacy delegate” means an individual employed by the pharmacy and selected by the pharmacist to act as that pharmacist’s agent to whom the pharmacist has delegated the task of accessing electronic prescription accountability system information and for whose actions the pharmacist takes full responsibility.

“Practitioner delegate” means an agent or employee of a practitioner (physician, dentist, veterinarian, advanced practice registered nurse with prescriptive authority, or physician assistant) to whom the practitioner has delegated the task of accessing electronic prescription accountability system information and for whose actions the practitioner takes full responsibility.

“Reverse distributor” means a registrant who is registered under section 329-32 to receive controlled substances acquired from another state certified controlled substance registrant pursuant to title 21 Code of Federal Regulations part 1317, for the purpose of:

- (1) Returning unwanted, unusable, or outdated controlled substances to the manufacturer or the manufacturer’s agent; or
- (2) Where necessary, processing such substances or arranging for the processing of such substances for disposal as authorized by the administrator.”

2. By amending the definition of “dispense” to read:

“Dispense” means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the [prescribing,] administering[,] of a practitioner’s controlled substances, and packaging, labeling, or compounding necessary to prepare the substance for that delivery. A controlled substance is dispensed when:

- (1) It is compounded, prepared, labeled,<sup>1</sup> and packaged pursuant to the lawful order of a practitioner by a licensed pharmacist acting in the usual course of [his] the licensed pharmacist’s professional practice and who is either registered individually or employed in a registered



- pharmacy or by a registered institutional practitioner, for delivery to the ultimate user;
- (2) It is compounded, prepared, labeled and packaged for delivery to the ultimate user by a practitioner acting in the usual course of [his] the practitioner's professional practice;
  - (3) It is prepared, labeled, and packaged pursuant to the lawful order of a practitioner by a registered health care professional acting as an agent of the practitioner for delivery to the ultimate user by the practitioner; or
  - (4) It is prepackaged by a pharmacist for use in an emergency facility for delivery to the ultimate user by a licensed or registered health care professional pursuant to the order of a physician."
3. By amending the definition of "locum tenens practitioner" to read: "“Locum tenens practitioner” means a practitioner[;:
- (1) ~~Who] who~~ who is licensed in this State and ~~[registered under section 329-32 to administer, prescribe, or dispense a controlled substance in the course of professional practice,]~~ who temporarily substitutes for another ~~[registered]~~ practitioner for a period not to exceed sixty days at that other practitioner's registered place of business[; and
  - (2) ~~Whose Drug Enforcement Administration controlled substance registration number has not been transferred to the State of Hawaii].~~

Locum tenens practitioners are not eligible to receive an oral code number as designated by section [§]328-16(k)[§]."

SECTION 2. Section 329-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- (2) Acetylmethadol;
- (3) Allylprodine;
- (4) Alphacetylmethadol (except levo-alphacetylmethadol, levomethadyl acetate, or LAAM);
- (5) Alphameprodine;
- (6) Alphamethadol;
- (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (9) Benzethidine;
- (10) Betacetylmethadol;
- (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
- (12) Beta-hydroxy-3-methylfentanyl (N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);
- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;

- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxidine;
- (29) Furethidine;
- (30) Hydroxypethidine;
- (31) Ketobemidone;
- (32) Levomoramide;
- (33) Levophenacetylmorphan;
- (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (35) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide);
- (36) Morpheridine;
- (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (38) Noracymethadol;
- (39) Norlevorphanol;
- (40) Normethadone;
- (41) Norpipanone;
- (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidyl] propanamide;
- (43) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine;
- (44) Phenadoxone;
- (45) Phenampromide;
- (46) Phenomorphan;
- (47) Phenoperidine;
- (48) Piritramide;
- (49) Proheptazine;
- (50) Properidine;
- (51) Propiram;
- (52) Racemoramide;
- (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidyl]-propanamide);
- (54) Tilidine;
- (55) Trimeperidine;
- (56) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts of isomers; ~~and~~
- (57) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts, and salts of isomers[-]; ~~and~~
- (58) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide, (acetyl fentanyl) its optical, positional, and geometric isomers, salts, and salts of isomers."

SECTION 3. Section 329-14, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) Any of the following cannabinoids, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Tetrahydrocannabinols; meaning tetrahydrocannabinols naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis*, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and Delta 3,4 cis or trans-tetrahydrocannabinol, and its optical isomers (since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are covered);
- (2) Naphthoylindoles; meaning any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;
- (3) Naphthylmethylindoles; meaning any compound containing a 1H-indol-3-yl-(1-naphthyl) methane structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;
- (4) Naphthoylpyrroles; meaning any compound containing a 3-(1-naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent;
- (5) Naphthylmethylindenes; meaning any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent;
- (6) Phenylacetylindoles; meaning any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent;
- (7) Cyclohexylphenols; meaning any compound containing a 2-(3-hydroxycyclohexyl) phenol structure with substitution at the 5-position of the phenolic ring by a alkyl, haloalkyl, alkenyl,

- cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not substituted in the cyclohexyl ring to any extent;
- (8) Benzoylindoles; meaning any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent;
  - (9) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone (another trade name is WIN 55,212-2);
  - (10) (6a,10a)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (other trade names are: HU-210 and HU-211);
  - (11) Tetramethylcyclopropanoylindoles; meaning any compound containing a 3-tetramethylcyclopropanoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent;
  - (12) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: APINACA, AKB48);
  - (13) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: PB-22; QUPIC);
  - (14) Quinolin-8-yl 1-(5fluoropentyl)-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 5-fluoro-PB-22; 5F-PB-22);
  - (15) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: AB-FUBINACA);
  - (16) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: ADB-PINACA);
  - (17) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: AB-CHMINACA);
  - (18) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, and geometric isomers, salts, and salts of isomers (Other names: AB-PINACA);
  - (19) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone, and geometric isomers, salts, and salts of isomers (Other names: THJ-2201);

- (20) Methyl (1-(4-fluorobenzyl)-1<sup>2</sup> H-indazole-3-carbonyl)-L-valinate, and geometric isomers, salts, and salts of isomers (Other names: FUB-AMB);
- (21) (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate, and geometric isomers, salts, and salts of isomers (Other names: 5-fluoro-AMB, 5-fluoro-AMP);
- (22) N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide, and geometric isomers, salts, and salts of isomers (Other names: AKB48 N-(5-fluoropentyl) analog, 5F-AKB48, APINACA 5-fluoropentyl analog, 5F-APINACA);
- (23) N-adamantyl-1-fluoropentylindole-3-Carboxamide, and geometric isomers, salts, and salts of isomers (Other names: STS-135, 5F-APICA; 5-fluoro-APICA); ~~and~~
- (24) Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, and geometric isomers, salts, and salts of isomers (Other names: NM2201); ~~and~~
- (25) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, and geometric isomers, salts, and salts of isomers (Other names: MAB-CHMINACA and ADB-CHMINACA)."

SECTION 4. Section 329-20, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its ~~[salts: Pentazocine.] optical isomers and its salts, isomers, and salts of isomers:~~

- (1) Pentazocine; and
- (2) Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl]][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino)methyl]-2-methoxybenzoic acid."

SECTION 5. Section 329-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department of public safety shall ~~[republish]~~ make available to the public on the department's website the schedules annually or more often, as may be necessary to update the schedules."

SECTION 6. Section 329-31, Hawaii Revised Statutes, is amended to read as follows:

"§329-31 Rules. The department of public safety may ~~[promulgate]~~ adopt rules and charge reasonable fees relating to the registration and control of the manufacture, distribution, ~~[prescription, and]~~ prescribing, dispensing ~~[of]~~, or reverse distribution with controlled substances within this State."

SECTION 7. Section 329-32, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:
  - "(a) Every person who:
    - (1) Manufactures, distributes, prescribes, ~~[or]~~ dispenses, or conducts reverse distribution with any controlled substance within this State;

- (2) Proposes to engage in the manufacture, distribution, prescription, ~~or~~ dispensing, or reverse distribution of any controlled substance within this State; or
- (3) Dispenses or proposes to dispense any controlled substance for use in this State by shipping, mailing, or otherwise delivering the controlled substance from a location outside this State;

shall obtain a registration issued by the department of public safety in accordance with the department's rules. A licensed or registered health care professional who acts as the authorized agent of a practitioner and who administers controlled substances at the direction of the practitioner shall not be required to obtain a registration.

(b) Persons registered by the department of public safety under this chapter to manufacture, distribute, prescribe, dispense, store, ~~or~~ conduct research, or conduct reverse distribution with controlled substances may possess, manufacture, distribute, prescribe, dispense, store, or conduct research with those substances to the extent authorized by their registration and in conformity with this part."

2. By amending subsection (e) to read:

"(e) A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, prescribes, ~~or~~ dispenses, or conducts reverse distribution with controlled substances, except an office used by a practitioner (who is registered at another location) where controlled substances are prescribed but neither administered nor otherwise dispensed as a regular part of the professional practice of the practitioner at such office, and where no supplies of controlled substances are maintained."

SECTION 8. Section 329-33, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) The department of public safety shall register an applicant to manufacture, dispense, prescribe, ~~or~~ distribute, or conduct reverse distribution with controlled substances included in sections 329-14, 329-16, 329-18, 329-20, and 329-22 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the department of public safety shall consider the following factors:

- (1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;
- (2) Compliance with applicable state and local law;
- (3) Any convictions of the applicant under any federal and state laws relating to any controlled substance;
- (4) Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;
- (5) Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;
- (6) Suspension, revocation, or surrender of the applicant's federal registration to manufacture, distribute, prescribe, or dispense controlled substances as authorized by federal law; and
- (7) Any other factor relevant to and consistent with the public health and safety."

2. By amending subsection (c) to read:

“(c) Practitioners ~~[must]~~ shall be registered to dispense or to prescribe any controlled substances or to conduct research with controlled substances in schedules II through V if they are authorized to dispense or to prescribe or conduct research under the law of this State. The department of public safety need not require separate registration under this part for practitioners engaging in research with nonnarcotic controlled substances in schedules II through V where the registrant is already registered under this part in another capacity. Practitioners registered under federal law to conduct research with schedule I substances may conduct research with schedule I substances within this State upon furnishing the department of public safety evidence of that federal registration.”

SECTION 9. Section 329-34, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A registration under section 329-33 to manufacture, distribute, ~~[or]~~ dispense, or conduct reverse distribution with a controlled substance may be suspended or revoked by the department of public safety upon a finding that the registrant:

- (1) Has furnished false or fraudulent material information in any application filed under this chapter;
- (2) Has been convicted of a felony or has been granted a motion for the deferral of acceptance of a guilty plea or a nolo contendere plea to a felony, pursuant to chapter 853 and under any state or federal law relating to any controlled substance;
- (3) Has had the registrant’s federal registration suspended or revoked to manufacture, distribute, prescribe, ~~[or]~~ dispense, or conduct reverse distribution with controlled substances; or
- (4) Has had the registrant’s state license to practice the registrant’s profession suspended or revoked by the applicable governing state board.”

SECTION 10. Section 329-36, Hawaii Revised Statutes, is amended to read as follows:

“§329-36 **Records of registrants.** Persons registered to manufacture, distribute, prescribe, ~~[or]~~ dispense, or conduct reverse distribution with controlled substances under this chapter shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of federal law and with any additional rules the department of public safety issues.”

SECTION 11. Section 329-37, Hawaii Revised Statutes, is amended to read as follows:

“§329-37 **Filing requirements.** All persons registered to manufacture, distribute, conduct reverse distribution, or dispense controlled substances and all persons who transport, warehouse, or otherwise handle controlled substances, shall file with the department of public safety on forms and within the time and manner prescribed by the department of public safety, copies of order, receipt and distribution of schedule I and schedule II controlled substances and other controlled substances designated by the department of public safety, showing the amounts of such controlled substances ordered, received, distributed, transported, warehoused, or otherwise handled.”

SECTION 12. Section 329-38, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No controlled substance in schedule II may be dispensed without a written prescription of a practitioner, except:

- (1) In the case of an emergency situation, a pharmacist may dispense a controlled substance listed in schedule II upon receiving oral authorization from a prescribing practitioner; provided that:
  - (A) The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period (dispensing beyond the emergency period ~~[must]~~ shall be pursuant to a written prescription signed by the prescribing practitioner);
  - (B) If the prescribing practitioner is not known to the pharmacist, the pharmacist shall make a reasonable effort to determine that the oral authorization came from a registered practitioner, which may include a callback to the prescribing practitioner using the phone number in the telephone directory or other good faith efforts to identify the prescriber; and
  - (C) Within seven days after authorizing an emergency oral prescription, the prescribing practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of this subsection, the prescription shall have written on its face “Authorization for Emergency Dispensing”. The written prescription may be delivered to the pharmacist in person or by mail, and if by mail, the prescription shall be postmarked within the seven-day period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription, which had earlier been reduced to writing. The pharmacist shall notify the administrator if the prescribing practitioner fails to deliver a written prescription to the pharmacy within the allotted time. Failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescribing individual practitioner. Any practitioner who fails to deliver a written prescription within the seven-day period shall be in violation of section 329-41(a)(1);
- (2) No schedule II narcotic controlled substance may be prescribed or dispensed for more than a thirty-day supply, except where such substances come in a single unit dose package that exceeds the thirty-day limit or where a terminally ill patient is certified by a physician to exceed the thirty-day limit;
- [~~(2)~~] (3) When dispensed directly by a practitioner, other than a pharmacist, to the ultimate user. The practitioner in dispensing a controlled substance in schedule II shall affix to the package a label showing:
  - (A) The date of dispensing;
  - (B) The name, strength, and quantity of the drug dispensed;
  - (C) The dispensing practitioner’s name and address;
  - (D) The name of the patient;
  - (E) The “use by” date for the drug, which shall be:
    - (i) The expiration date on the manufacturer’s or principal labeler’s container; or
    - (ii) One year from the date the drug is dispensed, whichever is earlier; and
  - (F) Directions for use, and cautionary statements, if any, contained in the prescription or as required by law.



A complete and accurate record of all schedule II controlled substances ordered, administered, prescribed, and dispensed shall be maintained for five years. Prescriptions and records of dispensing shall otherwise be retained in conformance with the requirements of section 329-36. No prescription for a controlled substance in schedule II may be refilled; or

- [3] (4) In the case of an electronic prescription, a pharmacist may dispense a controlled substance listed in schedule II upon receiving an electronic prescription."

SECTION 13. Section 329-52, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) For purposes of this section, "controlled premises" means:

- (1) Places where persons registered or exempted from registration requirements under this chapter are required to keep records; and
- (2) Places, including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this chapter are permitted to hold, manufacture, compound, process, sell, dispense, deliver, conduct chemical analysis, or otherwise dispose of any controlled substance or regulated chemical designated under section 329-61."

SECTION 14. Section 329-54, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) A practitioner engaged in medical research is not required or compelled to furnish the name or identity of a research subject to the department of public safety, nor may the practitioner be compelled in any state or local civil, criminal, administrative, legislative, or other proceedings to furnish the name or identity of any research subject that the practitioner is obligated to keep confidential[-] unless the subject violates section 329-41 or 329-46 or commits an offense pursuant to part IV of chapter 712."

SECTION 15. Section 329-74, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A person commits the offense of unlawful transport of pseudoephedrine if the person transports more than three packages of any product the sale of which is restricted by section 329-75 ~~[without a permit issued from the department].~~"

SECTION 16. Section 329-101, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The designated state agency shall determine those schedules of controlled substances, classes of controlled substances, and specific controlled substances that are purportedly being misused and abused in the State. As part of the controlled substance registration process, all practitioners, except veterinarians, and pharmacies shall be registered with the department to utilize the electronic prescription accountability system. No identified controlled substances may be dispensed unless information relevant to the dispensation of the substance is reported electronically or by means indicated by the designated state agency to the central repository established under section 329-102, in accordance with rules adopted by the department."

SECTION 17. Section 329-104, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) This section shall not prevent the disclosure, at the discretion of the administrator, of investigative information to:

- (1) Law enforcement officers, investigative agents of federal, state, or county law enforcement or regulatory agencies, United States attorneys, county prosecuting attorneys, or the attorney general; provided that the administrator has reasonable grounds to believe that the disclosure of any information collected under this part is in furtherance of an ongoing criminal or regulatory investigation or prosecution;
- (2) Registrants authorized under chapters 448, 453, and 463E who are registered to administer, prescribe, or dispense controlled substances~~;~~ and their practitioner delegate; provided that the information disclosed relates only to the registrant’s own patient;
- (3) Pharmacists~~;~~ or pharmacist delegates, employed by a pharmacy registered under section 329-32, who request prescription information about a customer relating to a violation or possible violation of this chapter; ~~[or]~~
- (4) Other state-authorized governmental prescription-monitoring programs~~;~~;
- (5) The chief medical examiner or licensed physician designee who requests information and certifies the request is for the purpose of investigating the death of an individual;
- (6) Qualified personnel for the purpose of bona fide research or education; provided that data elements that would reasonably identify a specific recipient, prescriber, or dispenser shall be deleted or redacted from the information prior to disclosure; provided further that release of the information may be made only pursuant to a written agreement between qualified personnel and the administrator in order to ensure compliance with this subsection; and
- (7) Other entities or individuals authorized by the administrator to assist the program with projects that enhance the electronic prescription accountability system.

Information disclosed to a registrant, pharmacist, or authorized government agency under this section shall be transmitted by a secure means determined by the designated agency.”

SECTION 18. Section 329-73, Hawaii Revised Statutes, is repealed.

SECTION 19. Statutory material to be repealed is bracketed and stricken.<sup>3</sup> New statutory material is underscored.

SECTION 20. This Act shall take effect on July 1, 2016.

(Approved July 6, 2016.)

#### Notes

1. Comma should be underscored.
2. Prior to amendment no space appeared here.
3. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Use Permits for Small Boat Facilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 200-10, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) Any person ~~[owning]~~ who owns an interest in a corporation or other business entity or is part of a controlled group possessing a valid commercial permit issued by the department, in accordance with rules adopted by the chairperson pursuant to chapter 91, may transfer any or all stock or other interest to another person without terminating the right of the corporation or business entity to retain or renew its commercial permit or any other permit issued to it by the department; provided that:

- (1) The corporation or business entity has been engaged in the same commercial vessel activity, as defined in section 200-9, for a minimum of one year;
- (2) The seller shall pay the department a business transfer fee based on the passenger-carrying capacity of the vessels owned or operated by the corporation or business entity as provided by rules adopted by the chairperson pursuant to chapter 91, except for transfers of stock or interest in a corporation or other business entity between spouses or first-generation lineal descendants; and
- (3) In the case of a controlled group, the transferee ~~[must]~~ shall retain eighty per cent control of the transferor.

Any person possessing a commercial permit shall be required to meet minimum revenue standards, as a condition of retaining or renewing the commercial permit.

When an application for renewal of a commercial permit is made at least sixty days prior to expiration of the commercial permit, the department shall review the application and, within thirty days of receipt of the application, shall renew the permit or notify the applicant that the application is incomplete or cannot be renewed and explain any reasons for nonrenewal. Within thirty days of receipt of the applicant's amended application, the department shall either renew the permit or notify the applicant that the permit will not be renewed.

If the holder of a commercial permit fails to timely obtain renewal of a commercial permit, the holder of the permit shall automatically be granted a thirty-day extension from the date of the existing permit's expiration to obtain a permit renewal.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 6, 2016.)

## A Bill for an Act Relating to Land Resources.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171-95, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) For the purposes of this section, “renewable energy producer” means:

- (1) Any producer or developer of electrical or thermal energy produced by wind, solar energy, hydropower, geothermal resources, landfill gas, waste-to-energy, ocean thermal energy conversion, cold sea-water, wave energy, biomass, including municipal solid waste, bio-fuels or fuels derived from organic sources, hydrogen fuels derived primarily from renewable energy, or fuel cells where the fuel is derived primarily from renewable sources that sell all of the net power produced from the demised premises to an electric utility company regulated under chapter 269 or that sells all of the thermal energy it produces to customers of district cooling systems; provided that up to twenty-five per cent of the power produced by a renewable energy producer and sold to the utility or to district cooling system customers may be derived from fossil fuels; or
- (2) Any grower or producer of plant or animal materials used primarily for the production of biofuels or other fuels; provided that nothing herein is intended to prevent the waste product or byproduct of the plant or animal material grown or produced for the production of biofuel, other fuels, electrical energy, or thermal energy, from being used for other useful purposes.”

SECTION 2. Section 182-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read: ““Department” means the department of land and natural resources.”

2. By amending the definition of “geothermal resources” to read:

““Geothermal resources” means the natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from, such natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases, and steam, in whatever form, found below the surface of the earth, but excluding oil, hydrocarbon gas, other hydrocarbon substances, and any water, mineral in solution, or other product obtained from naturally heated fluids, brines, associated gases, and steam, in whatever form, found below the surface of the earth, ~~[having a temperature of 150 degrees Fahrenheit or less,]~~ and not used for electrical power generation.”

3. By amending the definition of “geothermal resources exploration” to read:

““Geothermal resources exploration” means either of the following:

- (1) Conducting non-invasive geophysical operations, including geochemical operations, remote sensing, and other similar techniques; or
- (2) Drilling exploration wells for purposes including but not limited to the extraction and removal of minerals of types and quantities;

that are reasonably required for testing and analysis to provide ground truth or determine the economic viability of geothermal resources. The term does not include "geothermal resources development".

4. By amending the definition of "mining lease" to read:

"~~"Mining lease" means a lease of the right to conduct mining operations, including geothermal resource exploration or development, on state lands and [on lands sold or leased by the State or its predecessors in interest with a reservation of mineral rights to the State.] reserved lands.~~"

SECTION 3. Section 182-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All minerals in, on, or under state lands or reserved lands ~~[which hereafter become state lands]~~ are reserved to the State; provided that the board ~~[of land and natural resources]~~ may release, cancel, or waive the reservation whenever it deems the land use, other than mining, is of greater benefit to the State as provided for in section 182-4. ~~[Such]~~ The minerals are reserved from sale or lease except as provided in this chapter. A purchaser or lessee of ~~[any such]~~ the lands shall acquire no right, title, or interest in or to the minerals. The right of the purchaser or lessee shall be subject to the reservation of all the minerals and to the conditions and limitations prescribed by law providing for the State and persons authorized by it to prospect for, mine, and remove the minerals, and to occupy and use so much of the surface of the land as may be required for all purposes reasonably extending to the mining and removal of the minerals therefrom by any means whatsoever."

SECTION 4. Section 182-4, Hawaii Revised Statutes, is amended to read as follows:

**"§182-4 Mining leases on state lands.** (a) If any mineral is discovered or known to exist on state lands, any interested person may notify the board ~~[of land and natural resources]~~ of the person's desire to apply for a mining lease. The notice shall be accompanied by a fee of \$100 together with a description of the land desired to be leased ~~[and]~~, the minerals involved, and any information and maps that the board by rule may prescribe. As soon as practicable thereafter, the board shall cause a public notice to be given in the county where the lands are located, at least once in each of three successive weeks, setting forth the description of the land, and the minerals desired to be leased. The board may hold the public auction of the mining lease within six months from the date of the first notice or any further time that may be reasonably necessary. Whether or not the state land sought to be auctioned is then being utilized or put to some productive use, the board, after due notice of public hearing to all parties in interest, within six weeks from the date of the first notice or any further time that may be reasonably necessary, shall determine whether the proposed mining operation or the existing or reasonably foreseeable future use of the land would be of greater benefit to the State. If the board determines that the existing or reasonably foreseeable future use would be of greater benefit to the State than the proposed mining use of the land, it shall disapprove the application for a mining lease of the land without putting the land to auction. The board shall determine the area to be offered for lease and, after due notice of public hearing to all parties in interest, may modify the boundaries of the land areas. At least thirty days prior to the holding of any public auction, the board shall cause a public notice to be given in the State at least once in each of three successive weeks, setting forth the description of the land, the minerals to be leased, and the time and place of the auction. Bidders at the public auction may be required to bid on the amount

of annual rental to be paid for the term of the mining lease based on an upset price fixed by the board, a royalty based on the gross proceeds or net profits, cash bonus, or any combination or other basis and under any terms and conditions that may be set by the board.

(b) Any provisions to the contrary notwithstanding, if the person who discovers the mineral discovers it as a result of exploration permitted under section 182-6, and if that person bids at the public auction on the mining lease for the right to mine the discovered mineral and is unsuccessful in obtaining such lease, that person shall be reimbursed by the person submitting the highest successful bid at public auction for the direct or indirect costs incurred in the exploration of the land, excluding salaries, ~~[attorneys]~~ attorney's fees, and legal expenses. The department ~~[shall have the authority to]~~ may review and approve all expenses and costs that may be reimbursed.

(c) Notwithstanding any other law to the contrary, an application for a mining lease submitted pursuant to this section may be granted by the board in accordance with the procedures set forth in section 171-95.3."

SECTION 5. Section 182-5, Hawaii Revised Statutes, is amended to read as follows:

**"§182-5 Mining leases on reserved lands.** If any mineral is discovered or known to exist on reserved lands, any interested person may notify the board ~~[of land and natural resources]~~ of the person's desire to apply for a mining lease. The notice shall be accompanied by a fee of \$100 together with a description of the land desired to be leased and the minerals involved and ~~[such]~~ information and maps as the board may by ~~[regulation]~~ rule prescribe. The board may grant a mining lease on reserved lands in accordance with section 182-4, or the board ~~[may]~~ by the vote of two-thirds of ~~[its]~~ the members to which the board is entitled, without public auction, may grant a mining lease on reserved lands to the occupier thereof. ~~[Such a]~~ A mining lease may be granted to a person other than the occupier if the occupier has assigned the occupier's rights to apply for a mining lease to another person, in which case only ~~[such]~~ an assignee may be granted a mining lease. Any provisions to the contrary notwithstanding, if the board decides that it is appropriate to grant a geothermal mining lease on the reserved lands, the surface owner or the owner's assignee shall have the first right of refusal for a mining lease. If the occupier or the occupier's assignee of the right to obtain a mining lease should fail to apply for a mining lease within six months from the date of notice from the board of a finding by the board that it is in the public interest that the minerals on the reserved lands be mined, a mining lease shall be granted under section 182-4; provided that bidders at the public auction shall bid on an amount to be paid to the State for a mining lease granting to the lessee the right to exploit minerals reserved to the State."

SECTION 6. Section 182-6, Hawaii Revised Statutes, is amended to read as follows:

**"§182-6 Exploration.** Any person wishing to conduct geothermal or mineral exploration on state lands or reserved lands shall apply to the board ~~[of land and natural resources who]~~, which shall issue exploration permits upon terms and conditions as it shall by ~~[regulation]~~ rule prescribe. During and as a result of the exploration, no minerals of ~~[such]~~ types and quantity beyond that reasonably required for testing and analysis shall be extracted and removed from ~~[such]~~ the state lands[-] or reserved lands. Upon termination of the exploration permit, all exploration data, including but not limited to the drill logs and the

results of the assays resulting from the exploration, shall be turned over to the board and kept confidential by the board. If the person ~~[shall]~~ does not make application for a mining lease of the lands within a period of six months from the date the information is turned over to the board, the board in its discretion need not keep the information confidential.

This section shall be construed as authorizing the board to issue an exploration permit for geothermal resources as well as minerals."

SECTION 7. Section 182-7, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Prior to the public auction contemplated in section 182-4 or 182-5, or the granting of mining lease without public auction contemplated in section 182-4 or 182-5, the board ~~[of land and natural resources]~~ shall cause a mining lease for the land in question to be drawn. The lease shall describe the land and shall contain, in addition to such other provisions which the board may deem appropriate, specific provisions as provided in this section."

2. By amending subsections (d) through (f) to read:

"(d) The lessee shall covenant and agree that the lessee shall commence mining operations upon the leased lands within three years from the date of execution of the lease; provided that so long as the lessee is actively and on a substantial scale engaged in mining operations on at least one such lease on the same minerals, the covenant shall be suspended as to all other leases held by the lessee.

Any interested party may~~[-however,]~~ request that a mining lease contain a research period under which the lessees shall be required to expend money in research and development to establish a method to make economical the mining and processing of the ~~[mineral deposits contained]~~ minerals identified in the lease. If the board determines that the research period would be beneficial, it shall fix the period of research and shall also fix a minimum expenditure for labor performed or money spent by the lessee ~~[in]~~ on research and development and the method by which the lessee shall establish that such expenditure in fact be made. In ~~[such]~~ these leases, the obligation to commence mining operations within three years shall not commence until the expiration of the research period.

(e) For the period of the lease the lessee shall have the exclusive right of possession of the minerals leased and the exclusive rights to mine and remove the minerals by means ~~[which]~~ that shall be reasonable and satisfactory to the board and to occupy and use so much of the surface of the land as may reasonably be required, subject to the provisions of section 182-3. The right to use the surface shall include the right to erect transportation facilities thereon, construct plants for beneficiating, drying, and processing the minerals for electric power generation and transmission and ~~[such]~~ other uses as may be approved by the board. The other uses may include but need not be limited to uses necessary or convenient to the ~~[winning and]~~ processing of the minerals; provided that the lessee shall comply with all water and air pollution control laws, and rules of the State or its political subdivisions.

(f) The lessee may retain all minerals separated from the land as a part of the process of mining the minerals specified in the mining lease; provided that the lease may prescribe the accounting and testing procedures by which the amount and quality of ~~[such]~~ the additional materials shall be determined for the purpose of computing the excise tax thereon~~[-]~~ and the applicable royalty that may be set by the board for the use of the minerals."

SECTION 8. Section 182-10, Hawaii Revised Statutes, is amended to read as follows:

**“§182-10 Revocation of mining leases.** A mining lease may be revoked if the lessee fails to pay rentals when due or if any of the terms of the lease or of law are not complied with, or if the lessee wholly ceases all mining operations for other than reasons of force majeure or the uneconomic operation of the mining lease for a period of one year without the written consent of the board ~~[of land and natural resources]~~; provided that the board shall give the lessee notice of any default and the lessee shall have six months or such other time limit as provided by the rules ~~[and regulations]~~ from the date of the notice to remedy the default.”

SECTION 9. Section 182-14, Hawaii Revised Statutes, is amended to read as follows:

**“§182-14 Rules ~~[and regulations]~~.** Subject to chapter 91, the board ~~[of land and natural resources]~~ may ~~[make, promulgate]~~ adopt and amend ~~[such]~~ rules ~~[and regulations]~~ as it deems necessary to carry out this chapter and to perform its duties thereunder, all commensurate with and for the purpose of protecting the public interest. All ~~[such]~~ rules ~~[and regulations]~~ shall have the force and effect of law.”

SECTION 10. Sections 182-3(a), 182-11, 182-13, and 182-15, Hawaii Revised Statutes, are amended by substituting the word “board” wherever the phrase “board of land and natural resources” appears, as the context requires.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 12. This Act shall take effect on July 1, 2016.

(Approved July 6, 2016.)

## ACT 221

H.B. NO. 1999

A Bill for an Act Relating to Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the Hawaii livestock industry consistently identifies the cost of feed as the most expensive component in operational costs. This concern is in line with the national and global effort to reduce feed costs by replacing high-cost ingredients with lower-cost alternatives. Hawaii’s situation is exacerbated by the lack of local feed mills, which necessitates the importation of livestock feed. Years of research and local workshops to encourage and support the development of locally produced feed have not improved the deficient feed stock situation in the State.

The legislature further finds that the department of agriculture is committed to reducing the cost of production for the State’s livestock and aquaculture industries by reducing the cost of feed. Hawaii has the potential ingredients for the development and production of local feedstock. The department of agriculture has initiated a feed development process to identify, assess, and validate available local feed ingredients.

The purpose of this Act is to:



- (1) Establish and fund a grant program for qualified feed developers;
- (2) Appropriate funds to reimburse qualified producers of certain products for their cost of feed; and
- (3) Appropriate funds to reimburse feed developers for the costs of feed development.

SECTION 2. Chapter 155D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§155D- Grants; qualified feed developer.** (a) Applications for grants submitted by qualified feed developers shall be submitted on a form furnished by the department and shall be filed with accompanying documentation of feed development costs; provided that:

- (1) The applicant shall comply with applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, or disability;
- (2) The applicant shall have applied for or received any applicable licenses or permits;
- (3) The applicant shall indemnify and hold harmless the State and its officers, agents, and employees from all claims arising out of or resulting from the feed sold;
- (4) The grant shall not exceed a total of \$200,000 per qualified feed developer per year; and
- (5) The department may request an applicant to provide any necessary information for the purposes of verifying actual sales to qualified producers.

(b) Documentation of animal feed development costs, as requested by the department, shall be filed for feed sold to qualified producers within the immediately preceding fiscal quarter of the filing and shall be effective for feed development costs incurred after July 1, 2016.

(c) The applicant shall submit a quarterly financial statement of revenues and expenses along with other supporting documents as deemed necessary by the department and filed with the documentation of the feed development costs. An annual financial statement shall be filed with the department within ninety days following the close of the business' fiscal year, for final reconciliation of any reimbursement paid during the previous three quarters within the fiscal year. The financial statement shall be certified as accurate by the applicant and the preparer of the financial statement on forms prepared by the department.

(d) Funds shall be disbursed upon approval by the department to the qualified feed developer for up to fifty per cent of the development costs of feed sold to qualified producers, as verified by a certified public accountant.

(e) In no case shall costs be reimbursed to a qualified feed developer when, after evaluation and verification by the department, the department determines that the amount of reimbursement will result in an annual profit of more than ten per cent.

(f) The department shall aggregate the total grant applications pursuant to this section and divide and distribute the available grant funds on a pro rata basis.”

SECTION 3. Section 155D-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Qualified feed developer” means any person that, at the time of application for and disbursement of funds under this chapter, is in the business of cultivating feed crops or manufacturing feed for qualified producers.”

SECTION 4. Section 155D-2, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Documentation of animal feed costs, as requested by the department, shall be filed for feed purchased within the immediate preceding fiscal quarter of filing ~~[and shall be effective for feed costs incurred after July 1, 2013].~~

(c) The applicant shall submit a quarterly financial statement of farm revenues and expenses along with other supporting documents as deemed necessary by the department, and filed with the documentation of the feed costs. An annual financial statement shall be filed with the department within ninety days following the close of the business’ fiscal year ~~[after June 28, 2013,]~~ for final reconciliation of any reimbursement paid during the previous three quarters within the fiscal year. The financial statements shall be certified as accurate by the applicant and the preparer of the financial statement on forms prepared by the department.”

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the livestock revitalization program of the department of agriculture that shall be allocated as follows:

- (1) \$1,000,000 to reimburse qualified producers of milk, pork, eggs, poultry, beef, sheep, lamb, goats, and seafood, for the cost of feed for beef cattle, dairy cows or milking goats, goats raised for meat, sheep, hogs, fish, crustaceans, and poultry; and
- (2) \$1,000,000 to reimburse qualified feed developers for the costs of development of feed for sale to qualified producers; provided that from the sum appropriated, the department of agriculture may expend up to \$15,000 to administer and operate the qualified feed developer grant program pursuant to section 155D- , Hawaii Revised Statutes, including support services and general administrative overhead.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 6. Funds appropriated or authorized by section 5 of this Act that are not expended or encumbered by June 30, 2017, shall lapse as of that date.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on July 1, 2016.

(Approved July 6, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Tax Review Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 232E-3, Hawaii Revised Statutes, is amended to read as follows:

**“§232E-3 Duties.** The commission shall conduct a systematic review of the State’s tax structure, using such standards as equity and efficiency. Thirty days prior to the convening of the second regular session of the legislature after the members of the commission have been appointed, the commission shall submit to the legislature an evaluation of the State’s tax structure and recommend revenue and tax policy, except that:

- (1) For the commission appointed on or before July 1, 1980, or the replacement commission intended to function prior to the appointment of a new commission on or before July 1, 1985, the commission shall submit the required evaluation and recommendations to the legislature thirty days prior to the convening of the regular session of 1985; ~~and~~
- (2) For the commission appointed on or before July 1, 2010, or the successor commission intended to function prior to the appointment of a new commission on or before July 1, 2015, the commission shall submit the required evaluation and recommendations to the legislature thirty days prior to the convening of the regular session of 2013[-]; ~~and~~
- (3) For the commission appointed on or before July 1, 2015, or the successor commission intended to function prior to the appointment of a new commission on or before July 1, 2020, the commission shall submit the required evaluation and recommendations to the legislature thirty days prior to the convening of the regular session of 2018.”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 or so much thereof as may be necessary, for fiscal year 2016-2017 to be used by the tax review commission to conduct an evaluation of the State’s tax structure and recommend revenue and tax policy; provided that this appropriation shall not lapse at the end of fiscal year 2016-2017; provided further that all moneys that are unencumbered as of June 30, 2018, shall lapse as of that date.

The sum appropriated shall be expended by the department of taxation for the purposes of this Act.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that section 2 shall take effect on July 1, 2016.

(Approved July 6, 2016.)

## ACT 223

S.B. NO. 2987

A Bill for an Act Relating to the Transient Accommodations Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Revenues collected under this chapter shall be distributed in the following priority, with the excess revenues to be deposited into the general fund:

- (1) \$1,500,000 shall be allocated to the Turtle Bay conservation easement special fund beginning July 1, 2015, for the reimbursement to the state general fund of debt service on reimbursable general obligation bonds, including ongoing expenses related to the issuance of the bonds, the proceeds of which were used to acquire the conservation easement and other real property interests in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State, until the bonds are fully amortized;
- (2) \$26,500,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;
- (3) \$82,000,000 shall be allocated to the tourism special fund established under section 201B-11; provided that:
  - (A) Beginning on July 1, 2012, and ending on June 30, 2015, \$2,000,000 shall be expended from the tourism special fund for development and implementation of initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii;
  - (B) Of the \$82,000,000 allocated:
    - (i) \$1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance at the Hawaii convention center; and
    - (ii) 0.5 per cent of the \$82,000,000 shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan 2005-2015; and
  - (C) Of the revenues remaining in the tourism special fund after revenues have been deposited as provided in this paragraph and except for any sum authorized by the legislature for expenditure from revenues subject to this paragraph, beginning July 1, 2007, funds shall be deposited into the tourism emergency special fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency special fund;
- (4) \$103,000,000 for fiscal year 2014-2015, \$103,000,000 for fiscal year 2015-2016, ~~\$103,000,000 for fiscal year 2016-2017~~, and \$93,000,000 for each fiscal year thereafter shall be allocated as follows: Kauai county shall receive 14.5 per cent, Hawaii county shall receive 18.6 per cent, city and county of Honolulu shall receive 44.1 per cent, and Maui county shall receive 22.8 per cent; provided that commencing with fiscal year 2018-2019, a sum that represents the difference between a county public employer's annual required contribution for the separate trust fund established under section 87A-42 and the amount of the county public employer's contribu-

tions into that trust fund shall be retained by the state director of finance and deposited to the credit of the county public employer's annual required contribution into that trust fund in each fiscal year, as provided in section 87A-42, if the respective county fails to remit the total amount of the county's required annual contributions, as required under section 87A-43; and

- (5) \$3,000,000 shall be allocated to the special land and development fund established under section 171-19; provided that the allocation shall be expended in accordance with the Hawaii tourism authority strategic plan for:
  - (A) The protection, preservation, maintenance, and enhancement of natural resources, including beaches, important to the visitor industry;
  - (B) Planning, construction, and repair of facilities; and
  - (C) Operation and maintenance costs of public lands, including beaches, connected with enhancing the visitor experience.

All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection.

As used in this subsection, "fiscal year" means the twelve-month period beginning on July 1 of a calendar year and ending on June 30 of the following calendar year."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved July 6, 2016.)

## ACT 224

S.B. NO. 2849

A Bill for an Act Relating to Escrow Depositories.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 449-1, Hawaii Revised Statutes, is amended by adding four new definitions to be appropriately inserted and to read as follows:

"Control", in the context of control of an applicant or licensee, means ownership of or the power to vote twenty-five per cent or more of the outstanding voting securities of a licensee or controlling person. For purposes of determining the percentage of a licensee controlled by any person, there shall be aggregated with the controlling person's interest the interest of any other person controlled by the person, or by any spouse, parent, or child of the person.

"Controlling person" means any person in control of a licensee or applicant.

"NMLS" means a licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the state licensing and registration of state-licensed loan originators and other financial services providers, or any system provided by the Consumer Financial Protection Bureau.

"Principal" means a manager and anyone else who supervises or is in charge of the applicant or licensee."

SECTION 2. Section 449-1.9, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[~~§449-1.9~~]]~~ Powers of commissioner.** In addition to any other powers provided by law, the commissioner may:

- (1) Administer and enforce the provisions and requirements of this chapter;
- (2) Adopt, amend, or repeal rules or declaratory rulings pursuant to chapter 91 to effectuate the purposes of this chapter;
- (3) Issue informal nonbinding interpretations to effectuate the purposes of this chapter;
- (4) Investigate and conduct hearings regarding any violation of this chapter or any rule or order of the commissioner;
- (5) Contract with or employ qualified persons, including investigators, examiners, or auditors who shall be exempt from chapter 76 and who shall assist the commissioner in exercising the commissioner's powers and duties;
- (6) Deposit all fees, fines, and charges collected by the commissioner under this chapter into the compliance resolution fund established pursuant to section 26-9(o);
- (7) Process and investigate complaints, subpoena witnesses and documents, administer oaths, and receive affidavits and oral testimony, including through electronic means, and conduct contested case proceedings; ~~[and]~~
- (8) Report any violation of this chapter or violation of federal or state law to the United States Commissioner of Housing and Urban Development or any other federal agency having jurisdiction over the licensee~~[-]; and~~
- (9) Enter into agreements or contracts with the operators of NMLS or other entities designated by NMLS to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter; provided that:
  - (A) For the purpose and the extent necessary to use NMLS, the commissioner may:
    - (i) Require all escrow depositories to register with NMLS; and
    - (ii) Waive or modify, in whole or in part, by rule or order, any or all of the requirements of this chapter and establish new requirements as reasonably necessary to participate in NMLS; and
  - (B) In addition to other uses of NMLS, the commissioner may use NMLS as an agent for:
    - (i) Requesting information from and distributing information to the United States Department of Justice or any other governmental agency; and
    - (ii) Requesting and distributing information to and from any source directed by the commissioner.”

SECTION 3. Section 449-6, Hawaii Revised Statutes, is amended to read as follows:

**“§449-6 Application for license.** (a) Any corporation desiring to be licensed as an escrow depository shall ~~[file]~~ submit an application ~~[upon forms to be furnished]~~ in writing and in a form prescribed by NMLS or by the commis-

sioner. The application shall be accompanied by a filing fee no part of which shall be refundable.

- (b) The application shall contain the following ~~[information]~~:
- (1) The corporate name, amount of capital, and office address of the applicant;
- (2) The names of the stockholders, officers, and directors of the applicant;
- (3) Evidence of the character, financial responsibility, experience, and ability of the officers and directors; ~~[and]~~
- (4) The names of the proposed escrow officers and their qualifications~~[-]~~;
- (5) The history of the applicant's material litigation and criminal convictions for the five-year period prior to the date of the application;
- (6) Information and authorizations necessary to conduct a criminal history record check in accordance with section 846-2.7 of each of the applicant's controlling persons, and each of the officers, directors, and principals who will be in charge of the escrow depository's activities upon licensure, accompanied by the appropriate payment of the applicable fee for each record check; and
- (7) Any other information the commissioner deems necessary to participate in NMLS."

SECTION 4. Section 449-8, Hawaii Revised Statutes, is amended to read as follows:

**"§449-8 Issuance and renewal of license.** After approval of the application, and payment of the license fee, the commissioner shall issue to the applicant a license to act as an escrow depository. The license shall be effective only upon the applicant's filing with the commissioner an escrow depository's bond and evidence that fidelity bonds and errors and omissions insurance, or cash or securities deposits permitted in lieu thereof, have been obtained, all as provided in sections 449-9, 449-11, and 449-12. The license shall be renewed annually, as of ~~[July 1,]~~ December 31, upon payment of the annual renewal fee and the finding of the commissioner, from the information contained in the annual corporate exhibit of the licensee or investigation or hearing, that the licensee continues to meet the qualifications for licensing and has continued in force the bonds and insurance or the cash or securities deposits permitted in lieu thereof."

SECTION 5. Section 449-8.6, Hawaii Revised Statutes, is amended to read as follows:

**"§449-8.6 Sale or transfer of license or change in control.** (a) No escrow depository license shall be transferred except as provided in ~~[subsection (e)-]~~ this section.

(b) A bona fide sale of all or substantially all of the ongoing operations of a licensee shall not result in the assignment or transfer of the escrow depository license~~[-]~~, until approved by the commissioner as provided in this section. The proposed purchaser of all or substantially all of the ongoing operations of a licensee shall file an application for approval of a proposed change in control of the licensee, accompanied by a nonrefundable application fee in accordance with this chapter, and shall not act as an escrow depository [unless it] until the application has been [licensed] approved by the commissioner.

(c) ~~[If the licensee is a corporation, any intended]~~ Any transfer of [its] a licensee's voting stock which may result in the acquisition of control of the licensee may be considered a transfer of license[-]. Any intended transfer of the voting stock which may result in the acquisition of control] under this chapter.

and prior to the transfer shall be reported to the commissioner in writing. Upon determination by the commissioner that the intended transfer will result in the acquisition of control, the proposed purchaser or transferee of the stock shall file an application for approval [to act as an escrow depository] of a proposed change in control of the licensee, accompanied by a nonrefundable application fee in accordance with this chapter, and shall not [acquire control of] act as an escrow depository until the [transferee] application has been approved by the commissioner.

~~[(d) The fee for the transfer and change in control of an escrow depository license shall be \$5,000.]~~

(d) At the time of filing an application for approval of a proposed change in control of the licensee, the proposed purchaser or transferee shall provide to the commissioner the history of its material litigation and criminal convictions for the five-year period prior to the date of the application, and any other information requested by the commissioner which may include information similar to that required of an applicant for initial licensure or license renewal under this chapter. The proposed purchaser or transferee shall also provide any authorizations necessary for the commissioner to conduct criminal history record checks of each of the purchaser or transferee's controlling persons, and each of the officers, directors, and principals who will be in charge of the licensee's activities upon approval of the proposed application for change in control. The authorizations shall be accompanied by the appropriate payment of the applicable fee for each record check.

(e) Approval of the application for change in control of the licensee shall be granted only if the commissioner finds that following the change in control of the licensee, the character, financial responsibility, experience, ability, and general fitness of the controlling persons of the applicant for proposed change in control of the licensee, and each of the officers, directors, and principals who will be in charge of the licensee's activities upon approval of the proposed application for change in control, are such as to command the confidence of the community in the State and to warrant the beliefs that such persons are competent to successfully control and manage an escrow business and the applicant will be an honest and efficient escrow depository.

(f) In granting approval, the commissioner may impose such conditions and restrictions as shall be in the public interest, including without limitation requiring the proposed purchaser or transferee to fulfill representations contained in its application for approval of a proposed change in control of the licensee, and agreements made during the application process."

SECTION 6. Section 449-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The following fees shall be paid by licensed escrow depositories to the commissioner and, together with any administrative penalty or other charge assessed under this chapter, shall be deposited into the compliance resolution fund established pursuant to section 26-9(o):

- (1) For filing and investigation of an escrow depository's application for license, \$5,000;
- (2) For initial issuance of an escrow depository license, \$2,000;
- ~~[(2)]~~ (3) For an application for approval to establish a branch office, \$100;
- ~~[(3)]~~ (4) For an application for approval to relocate an existing office or branch, \$100;
- ~~[(4)]~~ (5) For annual renewal of an escrow depository's license, \$2,000;
- ~~[(5)]~~ (6) For initial issuance and annual renewal of a branch office license, \$100;



- ~~[(6)]~~ (7) For reissuance of a license for the change in the business address of its office, \$50; provided that a reissuance caused by changes to the address by the United States Postal Service shall not require payment of a fee; ~~[and]~~
- (8) For reissuance of a license for a change in the licensee's name, \$50;
- (9) For an application for a proposed change in control of the licensee, \$5,000; and
- ~~[(7)]~~ (10) For an application for approval to cease business as an escrow depository, \$0."

SECTION 7. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Criminal history record checks may be conducted by:

- (1) The department of health or its designee on operators of adult foster homes for individuals with developmental disabilities or developmental disabilities domiciliary homes and their employees, as provided by section 321-15.2;
- (2) The department of health or its designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health or health care services as provided by section 321-171.5;
- (3) The department of health or its designee on all applicants for licensure or certification for, operators for, prospective employees, adult volunteers, and all adults, except adults in care, at health care facilities as defined in section 321-15.2;
- (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
- (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
- (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
- (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
- (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
- (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
- (10) The department of human services on applicants to operate child care facilities, prospective employees of the applicant, and new employees of the provider after registration or licensure as provided by section 346-154;
- (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
- (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in community care foster family homes as provided by section 321-15.2;

- (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
- (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
- (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
- (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
- (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
- (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;
- (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;
- (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 321-15.2;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult protective and community services branch, as provided by section 346-97;
- (23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;
- (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
- (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;

- (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
- (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
- (28) The department of commerce and consumer affairs on:
  - (A) Each principal of every non-corporate applicant for a money transmitter license; and
  - (B) The executive officers, key shareholders, and managers in charge of a money transmitter's activities of every corporate applicant for a money transmitter license,
 as provided by sections 489D-9 and 489D-15;
- (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
- (30) The Hawaii health systems corporation on:
  - (A) Employees;
  - (B) Applicants seeking employment;
  - (C) Current or prospective members of the corporation board or regional system board; or
  - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;
- (31) The department of commerce and consumer affairs on:
  - (A) An applicant for a mortgage loan originator license; and
  - (B) Each control person, executive officer, director, general partner, and manager of an applicant for a mortgage loan originator company license,
 as provided by chapter 454F;
- (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;
- (33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;
- (34) The counties on prospective employees for fire department positions which involve contact with children or vulnerable adults;
- (35) The counties on prospective employees for emergency medical services positions which involve contact with children or vulnerable adults;
- (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable citizens during emergencies or crises;
- (37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;
- (38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;

- (39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information;
- (40) The department of commerce and consumer affairs on applicants for real estate appraiser licensure or certification as provided by chapter 466K;
- (41) The department of health or its designee on all license applicants, licensees, employees, contractors, and prospective employees of medical marijuana dispensaries, and individuals permitted to enter and remain in medical marijuana dispensary facilities as provided under sections 329D-15(a)(4) and 329D-16(a)(3); ~~and~~
- (42) The department of commerce and consumer affairs on:
  - (A) Each of the controlling persons of the applicant for licensure as an escrow depository, and each of the officers, directors, and principals who will be in charge of the escrow depository's activities upon licensure; and
  - (B) Each of the controlling persons of an applicant for proposed change in control of an escrow depository licensee, and each of the officers, directors, and principals who will be in charge of the licensee's activities upon approval of such application, as provided by chapter 449; and
- ~~[(42)]~~ (43) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law."

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.  
(Approved July 6, 2016.)

## ACT 225

S.B. NO. 2550

A Bill for an Act Relating to Federal Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to address federal funds for state government.

More specifically, this Act requires the office of the governor to conduct a federal funding policy study.

The legislature finds that the preparation of a study of federal funding is necessary for state public policymakers to better understand the possible consequences of major reductions in federal funding of state government programs and projects. The legislature intends for the study to result in a policy from the governor that reduces the dependence of state government on federal funds.

SECTION 2. (a) The office of the governor shall prepare a federal funding policy study for the State.

(b) The federal funding policy study shall:

- (1) Identify the federal fund awards that state executive departments regularly receive to pay for programs and projects;

- (2) Estimate the amount of federal funds to be expended by the state government annually in the next two fiscal bienniums;
  - (3) Analyze the extent of the dependence of state executive departments on federal funds to pay for major programs and projects;
  - (4) Address the likelihood of a reduction of federal funds for state programs and projects in the next two fiscal bienniums; and
  - (5) Discuss generally the impact on state government and Hawaii residents if federal funding levels are reduced.
- (c) Based upon the findings from subsection (b), the federal funding policy study shall recommend a policy with respect to the use of federal funds for state programs and projects. The policy shall include:
- (1) Parameters regarding the application for and acceptance of federal funds available on a formula or competitive basis;
  - (2) Principles guiding the extent of dependence of state executive departments on federal funds;
  - (3) Conditions for using federal funds as the means of financing the salaries of state employees;
  - (4) Circumstances under which the state government should continue programs or projects with state funds after federal funds are no longer available for those programs and projects; and
  - (5) Measures and recommendations to protect the state government and residents of the State from the adverse effects of a slowed or reduced rate of federal funding for state programs and projects.
- (d) The office of the governor shall submit:
- (1) An interim report on the actions taken pursuant to this Act from its effective date until December 31, 2016, to the legislature no later than twenty days prior to the convening of the regular session of 2017; and
  - (2) The final federal funding policy study and any proposed legislation to the legislature no later than twenty days prior to the convening of the regular session of 2018.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the preparation of the federal funding policy study.

The sum appropriated shall be expended by the office of the governor for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved July 6, 2016.)

## ACT 226

S.B. NO. 2395

A Bill for an Act Relating to Telehealth.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that telehealth has allowed states to implement innovative health policy reforms that achieve significant cost savings and improve health outcomes. There are many opportunities for improving health care access in Hawaii through the use of telehealth, especially in areas of the State faced with a shortage of health care providers.

However, the legislature further finds that restrictions on telehealth, such as geographical limitations on service, limitations on patient setting, and restrictions on applicable technology, act as barriers that prevent health care providers and patients from realizing the full benefits of telehealth.

Accordingly, the purpose of this Act is to enhance access to care via telehealth by:

- (1) Requiring the State's medicaid managed care and fee-for-service programs to cover services provided through telehealth;
- (2) Specifying that any telehealth services provided shall be consistent with all federal and state privacy, security, and confidentiality laws;
- (3) Specifying medical professional liability insurance policy requirements with regard to telehealth coverage;
- (4) Clarifying that reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient;
- (5) Requiring written disclosure of coverages and benefits associated with telehealth services;
- (6) Ensuring that telehealth encompasses store and forward technologies, remote monitoring, live consultation, and mobile health;
- (7) Ensuring that telehealth is covered when originating in a patient's home and other non-medical environments;
- (8) Clarifying requirements for physicians and out-of-state physicians to establish a physician-patient relationship via telehealth;
- (9) Ensuring that reimbursement requirements for telehealth services apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes; and
- (10) Making other conforming amendments related to telehealth for clarity.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§346- Coverage for telehealth.** (a) The State's medicaid managed care and fee-for-service programs shall not deny coverage for any service provided through telehealth that would be covered if the service were provided through in-person consultation between a patient and a health care provider.

(b) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

(c) There shall be no geographic restrictions or requirements for telehealth coverage or reimbursement under this section.

(d) There shall be no restrictions on originating site requirements for telehealth coverage or reimbursement under this section.

(e) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.

(f) Notwithstanding any other law to the contrary, the provisions of this section shall comply with the applicable federal requirements related to utilization, coverage, and reimbursement for telehealth services.

(g) For the purposes of this section:

“Distant site” means the location of the health care provider delivering services through telehealth at the time the services are provided.

“Health care provider” means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

“Originating site” means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider’s office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient’s home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

“Telehealth” means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this section.”

SECTION 3. Chapter 457, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§457- Telehealth; privacy, security, and confidentiality.** Services relating to the practice of nursing provided by telehealth pursuant to this chapter shall be consistent with all federal and state privacy, security, and confidentiality laws.”

SECTION 4. Chapter 671, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§671- Professional liability insurance; coverage for telehealth.** (a) Every insurer providing professional liability insurance for a health care provider shall ensure that every policy that is issued, amended, or renewed in this State on or after the effective date of Act , Session Laws of Hawaii 2016, shall provide malpractice coverage for telehealth that shall be equivalent to coverage for the same services provided via face-to-face contact between a health care provider and a patient.

(b) No insurer providing professional liability insurance policies shall require face-to-face contact between a health care provider and a patient as a prerequisite for coverage of services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and

conditions of the policy agreed upon between the health care provider and the insurer.

(c) For purposes of this section:

"Distant site" means the location of the health care provider delivering services through telehealth at the time the services are provided.

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider's office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient's home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this section."

SECTION 5. Section 209E-2, Hawaii Revised Statutes, is amended by amending the definition of "medical and health care services" to read as follows:

"Medical and health care services" means medical research[~~]~~ and clinical trials, [~~and telehealth,~~] but not routine medical treatment or services."

SECTION 6. Section 431:10A-116.3, Hawaii Revised Statutes, is amended to read as follows:

**"§431:10A-116.3 Coverage for telehealth.** (a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without face-to-face contact with the health care provider.

(b) No accident and health or sickness insurance plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the insurer, and the health care provider.

(c) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. ~~[There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral~~



health services are provided, a second health care provider shall not be required to accompany the patient.

For the purposes of this section, “health care provider” means a provider of services, as defined in 42 U.S.C. 1395x(u), a provider of medical and other health services, as defined in 42 U.S.C. 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

(d) Notwithstanding chapter 453 or rules adopted pursuant thereto, in the event that a health care provider-patient relationship does not exist between the patient and the health care provider to be involved in a telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.

(e) All insurers shall provide current and prospective insureds with written disclosure of coverages and benefits associated with telehealth services, including information on copayments, deductibles, or coinsurance requirements under a policy, contract, plan, or agreement. The information provided shall be current, understandable, and available prior to the issuance of a policy, contract, plan, or agreement, and upon request after the policy, contract, plan, or agreement has been issued.

(f) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.

~~[(e)]~~ (g) For the purposes of this section, “telehealth”:

“Distant site” means the location of the health care provider delivering services through telehealth at the time the services are provided.

“Health care provider” means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

“Originating site” means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider’s office, hospital, health care facility, a patient’s home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

“Telehealth” means the use of telecommunications services, as defined in section 269-1, [including] to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health

care services and information [to parties separated by distance.] while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter.”

SECTION 7. Section 432:1-601.5, Hawaii Revised Statutes, is amended to read as follows:

**“§432:1-601.5 Coverage for telehealth.** (a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without face-to-face contact with the health care provider.

(b) No mutual benefit society plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the mutual benefit society, and the health care provider.

(c) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. ~~[There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.]~~

For the purposes of this section, “health care provider” means a provider of services, as defined in 42 U.S.C. 1395x(u), a provider of medical or other health services, as defined in 42 U.S.C. 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

(d) Notwithstanding chapter 453 or rules adopted pursuant thereto, in the event that a health care provider-patient relationship does not exist between the patient and the health care provider to be involved in a telehealth interaction between the patient and health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.

(e) All insurers shall provide current and prospective enrollees or subscribers with written disclosure of coverages and benefits associated with telehealth services, including information on copayments, deductibles, or co-insurance requirements under a policy, contract, plan, or agreement. The information provided shall be current, understandable, and available prior to the issuance of a policy, contract, plan, or agreement, and upon request after the policy, contract, plan, or agreement has been issued.

(f) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.

~~[(e)]~~ (g) For the purposes of this section, “telehealth”:

“Health care provider” means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

“Originating site” means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider’s office, hospital, health care facility, a patient’s home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

“Telehealth” means the use of telecommunications services, as defined in section 269-1, [including] to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information [to parties separated by distance.] while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter.”

SECTION 8. Section 432D-23.5, Hawaii Revised Statutes, is amended to read as follows:

**“§432D-23.5 Coverage for telehealth.** (a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without face-to-face contact with the health care provider.

(b) No health maintenance organization plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the health maintenance organization, and the health care provider.

(c) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. ~~[There shall be no reimbursement for a telehealth consultation between health care providers unless an existing health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction and the patient is accompanied by a treating health care provider at the time telehealth~~

services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.

For the purposes of this section, "health care provider" means a provider of services, as defined in 42 U.S.C. 1395x(u), a provider of medical or other health services, as defined in 42 U.S.C. 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.] Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

(d) Notwithstanding chapter 453 or rules adopted pursuant thereto, in the event that a health care provider-patient relationship does not exist between the patient and the health care provider involved in a telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.

(e) All health maintenance organizations shall provide current and prospective insureds with written disclosure of coverages and benefits associated with telehealth services, including information on copayments, deductibles, or coinsurance requirements under a policy, contract, plan, or agreement. The information provided shall be current, understandable, and available prior to enrollment in a policy, contract, plan, or agreement and upon request after enrollment in the policy, contract, plan, or agreement.

(f) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.

[(e)] (g) For the purposes of this section, "telehealth":

"Distant site" means the location of the health care provider delivering services through telehealth at the time the services are provided.

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider's office, hospital, health care facility, a patient's home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications services, as defined in section 269-1, [including] to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medi-

cal interpretation and diagnosis, for the purpose of delivering enhanced health care services and information ~~[to parties separated by distance.] while a patient is at an originating site and the health care provider is at a distant site.~~ Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter.”

SECTION 9. Section 453-1.3, Hawaii Revised Statutes, is amended to read as follows:

**“§453-1.3 Practice of telehealth.** (a) Subject to section 453-2(b), nothing in this section shall preclude any physician acting within the scope of the physician’s license to practice from practicing telehealth as defined in this section.

~~[(b)]~~ For the purposes of this section, “telehealth” means the use of telecommunications as that term is defined in section 269-1, including but not limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purposes of delivering enhanced health care services and information to parties separated by distance, establishing a physician-patient relationship, evaluating a patient, or treating a patient.

~~[(e)]~~ (b) Telehealth services shall include a documented patient evaluation, including history and a discussion of physical symptoms adequate to establish a diagnosis and to identify underlying conditions or contraindications to the treatment recommended or provided.

~~[(d)]~~ (c) Treatment recommendations made via telehealth, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional physician-patient settings that do not include a face-to-face visit but in which prescribing is appropriate, including on-call telephone encounters and encounters for which a follow-up visit is arranged. Issuing a prescription based solely on an online questionnaire is not treatment for the purposes of this section and does not constitute an acceptable standard of care. For the purposes of prescribing ~~[a controlled substance, opiates or medical marijuana,~~ a physician-patient relationship shall only be established ~~[pursuant to chapter 329.]~~ after an in-person consultation between the prescribing physician and the patient.

~~[(e)]~~ (d) All medical reports resulting from telehealth services are part of a patient’s health record and shall be made available to the patient. Patient medical records shall be maintained in compliance with all applicable state and federal requirements including privacy requirements.

~~[(f)]~~ (e) A physician shall not use telehealth to establish a physician-patient relationship with a patient in this State without a license to practice medicine in Hawaii.

(f) A physician-patient relationship may be established via telehealth if the patient is referred to the telehealth provider by another health care provider who has conducted an in-person consultation and has provided all pertinent patient information to the telehealth provider. Once a provider-patient relationship is established, a patient or physician licensed in this State may use telehealth for any purpose, including consultation with a medical provider licensed in another state, authorized by this section or as otherwise provided by law.

(g) The physician-patient relationship prerequisite under this section shall not apply to telehealth consultations for emergency department services.

~~[(g)]~~ (h) Reimbursement for behavioral health services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient.

(i) Services provided by telehealth pursuant to this chapter shall be consistent with all federal and state privacy, security, and confidentiality laws.

(j) For the purposes of this section:

"Distant site" means the location of the physician delivering services through telehealth at the time the services are provided.

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a physician through telehealth, including but not limited to a physician's office, hospital, health care facility, a patient's home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications as that term is defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purposes of: delivering enhanced health care services and information while a patient is at an originating site and the physician is at a distant site; establishing a physician-patient relationship; evaluating a patient; or treating a patient."

SECTION 10. Section 453-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Nothing herein shall:

- (1) Apply to so-called Christian Scientists; provided that the Christian Scientists practice the religious tenets of their church without pretending a knowledge of medicine or surgery;
- (2) Prohibit service in the case of emergency or the domestic administration of family remedies;
- (3) Apply to any commissioned medical officer in the United States armed forces or public health service engaged in the discharge of one's official duty, including a commissioned medical officer employed by the United States Department of Defense, while providing direct telehealth support or services to neighbor island beneficiaries within a Hawaii National Guard armory on the island of Kauai, Hawaii, Molokai, or Maui; provided that the commissioned medical officer employed by the United States Department of Defense is credentialed by Tripler Army Medical Center;
- (4) Apply to any practitioner of medicine and surgery from another state when in actual consultation, including in-person, mail, electronic, telephonic, fiber-optic, or other telehealth consultation with a licensed physician or osteopathic physician of this State, if the physician or osteopathic physician from another state at the time of consultation is licensed to practice in the state in which the physician or osteopathic physician resides; provided that:
  - (A) The physician or osteopathic physician from another state shall not open an office, or appoint a place to meet patients in this State, or receive calls within the limits of the State for the provision of care for a patient who is located in this State;

- (B) The licensed physician or osteopathic physician of this State retains control and remains responsible for the provision of care for the patient who is located in this State; and
- (C) The laws and rules relating to contagious diseases are not violated;
- (5) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services, or any physician assistant, when the services are rendered under the direction and control of a physician or osteopathic physician licensed in this State except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. The direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician or osteopathic physician. Any physician or osteopathic physician who employs or directs a person certified under part II of this chapter to provide emergency medical services, or a physician assistant, shall retain full professional and personal responsibility for any act that constitutes the practice of medicine when performed by the certified person or physician assistant;
- (6) Prohibit automated external defibrillation by:
  - (A) Any first responder personnel certified by the department of health to provide automated external defibrillation when it is rendered under the medical oversight of a physician or osteopathic physician licensed in this State; or
  - (B) Any person acting in accordance with section 663-1.5(e); or
- (7) Prohibit a radiologist duly licensed to practice medicine and provide radiology services in another state from using telehealth while located in this State to provide radiology services to a patient who is located in the state in which the radiologist is licensed. For the purposes of this paragraph:

"Distant site" means the location of the radiologist delivering services through telehealth at the time the services are provided.

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a radiologist through telehealth, including but not limited to a radiologist's or health care provider's office, hospital, health care facility, a patient's home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Radiologist" means a doctor of medicine or a doctor of osteopathy certified in radiology by the American Board of Radiology or the American Board of Osteopathy.

"Telehealth" means the use of telecommunications, as that term is defined in section 269-1, [including] to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information [to parties separated by distance.] while a patient is at an

originating site and the radiologist is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail texts, in combination or by themselves, do not constitute a telehealth service for the purposes of this paragraph."

SECTION 11. Section 457-2, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

"Distant site" means the location of the nurse delivering services through telehealth at the time the services are provided.

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a nurse through telehealth, including but not limited to a nurse's or health care provider's office, hospital, health care facility, a patient's home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient."

2. By amending the definition of "telehealth" to read:

"Telehealth" means the use of [electronic information and telecommunication technologies] telecommunications as that term is defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, to support long-distance clinical health care[;] while a patient is at an originating site and the nurse is at a distant site, patient and professional health-related education, public health and health administration, to the extent that it relates to nursing."

SECTION 12. Section 466J-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any provision in this chapter to the contrary notwithstanding, a license shall not be required for:

- (1) A licensed medical practitioner in radiology;
- (2) A licensed practitioner of nuclear medicine;
- (3) A licensed physician assistant;
- (4) A licensed doctor of dentistry;
- (5) A licensed dental technician;
- (6) A licensed dental hygienist;
- (7) A student in an approved school for radiographers, radiation therapists, or nuclear medicine technologists, or in a school of medicine, podiatry, dentistry, or a chiropractic school; provided that the student is operating x-ray machines under the direct supervision of a licensed radiographer, licensed radiation therapist, licensed nuclear medicine technologist, or a qualified person pursuant to this chapter; and
- (8) A radiologist duly licensed to practice medicine and radiology services in another state who uses telehealth while located in this State to provide radiology services to a patient who is located in the state in which the radiologist is licensed[-]; provided that services provided by telehealth pursuant to this paragraph shall be consistent with



all federal and state privacy, security, and confidentiality laws. For the purposes of this paragraph:

“Distant site” means the location of the radiologist delivering services through telehealth at the time the services are provided.

“Originating site” means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a radiologist through telehealth, including but not limited to a radiologist’s or health care provider’s office, hospital, health care facility, a patient’s home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

“Radiologist” means a doctor of medicine or a doctor of osteopathy certified in radiology by the American Board of Radiology or the American Board of Osteopathy.

“Telehealth” means the use of telecommunications, as that term is defined in section 269-1, [including] to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information [to parties separated by distance.] while a patient is at an originating site and the radiologist is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail texts, in combination or by themselves, do not constitute a telehealth service for the purposes of this paragraph.”

SECTION 13. Notwithstanding any other law to the contrary, the reimbursement for telehealth services required under sections 6, 7, and 8 of this Act shall apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes, issued, renewed, modified, altered, or amended on or after the effective date of this Act.

SECTION 14. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 15. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 16. This Act shall take effect on January 1, 2017.

(Approved July 7, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 227

S.B. NO. 2630

A Bill for an Act Relating to Public Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

## PART I

SECTION 1. Section 354D-4, Hawaii Revised Statutes, is amended to read as follows:

**“§354D-4 Powers and duties of the director.** Under the supervision of the director or the director’s designee, the administrator of the correctional industries program shall:

- (1) Develop programs generating revenue that best sustains their operation and allows for capital investment, and reimburses the general fund, when possible, for the expense of correctional services;
- (2) Develop programs providing the maximum level of work and training opportunities for qualified, able-bodied inmates;
- (3) Develop programs assuming responsibility for training qualified, ~~[able-bodied]~~ appropriately screened inmates in ~~[general work]~~ applicable work and specific training skills that increase their employment prospects after release;
- (4) Develop programs in which inmates can learn skills used in the construction and other industries, while providing low-cost construction, renovation, and repairs of facilities, grounds, furniture, vehicles, and equipment for private, nonprofit social services, health, or education agencies and programs;
- (5) Acquire or purchase equipment, materials, supplies, office space, insurance, and services necessary to establish and maintain programs pursuant to this chapter;
- (6) ~~[Use labor services]~~ Conduct industries or enterprises for the employment of qualified, able-bodied inmates in the manufacture or production of ~~[goods]~~ articles and products deemed appropriate for sale by the director and the provision of services for sale to the public or that [are] may be needed for the construction, operation, [or] maintenance, or use of any office, department, institution, or agency supported in whole or in part by [the State, the counties,] a state and its political subdivisions or the federal government;
- ~~[(7) Sell all goods and services to the State, the counties, or the federal government;~~
- ~~(8)~~ (7) Sell uniforms and uniform accessories to state-employed adult corrections officers;
- ~~[(9)]~~ (8) Purchase, lease, trade, exchange, acquire, and maintain personal property; and
- ~~[(40)]~~ (9) Accept grants or loans from the State, the counties, or the federal government.”

SECTION 2. Section 354D-15, Hawaii Revised Statutes, is repealed.

## PART II

SECTION 3. The legislature finds that Hawaii’s prison system houses many more inmates than it was designed to accommodate and may be in danger

of violating federal standards, although there have been continual discussions about building new prison facilities that would be completed in five to ten years. One reason the prison system is overburdened is that 49.6 per cent of convicted felons return to prison within one year after their release.

The reentry of former inmates into society has often been difficult because:

- (1) Training they received while incarcerated has become obsolete and is no longer economically relevant;
- (2) They acquired negative habits in prison and are not motivated to seek lawful employment; and
- (3) They lack the necessary skills and training to secure meaningful employment that provides adequate pay and is conducive to a more normal lifestyle.

In order to reduce recidivism, several states have established programs that include training and mentoring to give inmates an opportunity to learn professional, vocational, and entrepreneurial skills that will facilitate their reentry into society.

The purpose of this part is to require the department of business, economic development, and tourism to conduct a study of the feasibility of establishing a training and mentoring program for qualified prison inmates that will provide the tools they need to find meaningful employment upon release and thereby decrease the burden of recidivism and incarceration on taxpayers and the State.

**SECTION 4.** The department of business, economic development, and tourism's Hawaii community-based economic development technical and financial assistance program shall conduct a study to determine the feasibility of establishing a training and mentoring program for qualified prison inmates, to be called the reentry academy for training and entrepreneurial resources (RAFTER), to facilitate their reentry into society.

In conducting the study, the department shall cooperate with the visitor and resort industries, labor unions, the construction industry, community colleges, and the University of Hawaii, to identify the kinds of training and mentoring required to succeed in various professions, industries, vocations, and trades. The department shall also develop a component to offer inmates training in life skills such as personal hygiene and grooming, dressing for success, exercise, healthy diets, time management, dealing with family relationships, responsible finances, and basic reading, writing, and arithmetic skills.

The department shall submit a report of its findings and recommendations to the legislature no later than twenty days prior to the convening of the regular session of 2017.

The report shall be reviewed by the reentry commission and the house and senate standing committees with jurisdiction over public safety.

**SECTION 5.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2016-2017 to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

### PART III

**SECTION 6.** Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval; provided that section 5 shall take effect on July 1, 2016.

(Approved July 7, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 228**

S.B. NO. 2659

A Bill for an Act Relating to Industrial Hemp.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that mankind has cultivated hemp as a source of food and fiber for thousands of years. Modern production methods have utilized hemp's oilseed to make high-grade food and beauty products. The stalks produce fiber and cellulose for everything from automotive parts and fine clothing to building materials and fuel.

The legislature further finds that according to estimates by the Hemp Industries Association, retail sales of industrial hemp products in the United States have grown steadily since 1990 to more than \$620,000,000 annually in 2014. California manufacturers of hemp products currently import tens of thousands of acres' worth of hemp seed, oil, and fiber products from around the world that could be produced by American farmers at a more competitive price. Additionally, the intermediate processing of hemp seed, oil, food ingredients, and fiber could create jobs in close proximity to the fields of cultivation.

The legislature further finds that support for industrial hemp farming is occurring at the national level. California, Colorado, Delaware, Hawaii, Illinois, Indiana, Kentucky, Maine, Montana, Nebraska, North Dakota, Oregon, South Carolina, Tennessee, Utah, Vermont, Washington, and West Virginia have defined industrial hemp as a distinct agricultural crop and removed barriers to its production. Furthermore, President Obama signed the 2014 Farm Bill into law, which authorizes industrial hemp research and pilot programs in states that regulate hemp farming under the authority of the state department of agriculture. This relaxation of the federal government's prohibition signals that hemp is poised to once again become a lucrative industrial crop in the United States.

The purpose of this Act is to establish an industrial hemp pilot program to allow the cultivation of industrial hemp and distribution of its seed in Hawaii through limited activities by the board of agriculture through a pilot program for purposes of agricultural or academic research.

SECTION 2. Chapter 141, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . INDUSTRIAL HEMP PILOT PROGRAM**

**§141-A Definitions.** As used in this part:

"Applicant" means a person that is an individual residing in Hawaii or an institution of higher education, a sole proprietorship, partnership, association, corporation, limited-liability corporation, limited partnership, or any other business entity having any:

- (1) Place of business permanently located within the State;

- (2) Employees permanently assigned to work stations or areas located within the State; or
- (3) Tangible assets permanently located within the State.

"Board" means the board of agriculture.

"Chairperson" means the chairperson of the board of agriculture.

"Industrial hemp" means the plant *Cannabis sativa* L. and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 per cent on a dry weight basis or a tetrahydrocannabinol concentration allowed by federal law, whichever is greater, that is cultivated.

"Seed cultivar" means a variety of industrial hemp.

"Variety" means a group of individual plants that exhibit the same observable physical characteristics or have the same genetic composition.

**§141-B Industrial hemp pilot program; established.** (a) There is established within the department of agriculture an industrial hemp pilot program to allow the cultivation of industrial hemp and distribution of its seed in Hawaii through a pilot program for purposes of agricultural or academic research. The industrial hemp pilot program may be conducted on multiple test sites.

(b) In order to acquire industrial hemp seed for the pilot program, the department of agriculture shall register with the United States Department of Justice, Drug Enforcement Administration, as an importer of controlled substances.

(c) The pilot program shall establish an agency relationship with licensees, who operate as extensions of the board for the purposes of research on the growth, cultivation, and marketing of industrial hemp.

(d) The board shall make a reasonable effort to:

- (1) Inform licensees of the laws and regulations applicable to the production of industrial hemp;
- (2) Act as a resource for licensees on regulatory questions regarding the industrial hemp pilot program; provided that the board shall not provide licensees with legal advice;
- (3) Provide licensees with industrial hemp seed, upon licensees' request and at licensees' expense, in a quantity and variety determined at the discretion of the board; and
- (4) Catalog data received, in cooperation with the licensee, other program participants, and institutions of higher education in the State, for improved methods and techniques in growing, cultivating, and marketing industrial hemp.

**§141-C Licensing.** (a) Each applicant for an industrial hemp license shall submit a signed, complete, accurate, and legible application form provided by the board between January 1 and April 1 of the year in which the applicant plans to grow industrial hemp, which shall include the following:

- (1) The applicant's name, mailing address, and phone number in Hawaii and, if applicable, electronic mail address;
- (2) If the applicant is an individual or partnership, the date of birth of the individual or partners;
- (3) If the applicant is any business entity other than an individual, partnership, or institution of higher education, documentation that the entity is authorized to do business in Hawaii;
- (4) The cultivated variety that will be sown;
- (5) The source and amount of certified seed to be used;

- (6) The number of acres to be cultivated for seed, viable grain, industrial products, or any combination thereof;
- (7) The global positioning system coordinates in decimal degrees from the central most point of the growing area to be cultivated and a map showing the location of the growing area in terms of its address or legal description;
- (8) A statement that the applicant is the owner of the growing area to be used for the cultivation or a statement, signed by the owner of the growing area, indicating that the owner has consented to that use;
- (9) The address of the place in Hawaii where the applicant will keep the records, books, electronic data, or other documents that are required by this part;
- (10) The name and address of each place where the industrial hemp is to be stored, sold, or provided, indicating for each place the form of the industrial hemp; and
- (11) The applicant's acknowledgment and agreement to the following terms and conditions:
  - (A) Any information obtained by the board may be publicly disclosed and provided to law enforcement agencies without further notice to the applicant or licensee;
  - (B) The applicant agrees to allow any inspection and sampling that the board deems necessary;
  - (C) The applicant agrees to pay for any sampling and analysis costs that the board deems necessary;
  - (D) The applicant agrees to submit all required reports by the applicable due dates specified by the board; and
  - (E) The applicant and any partner, directors, or members have not been convicted of any felony related to the possession, production, sale, or distribution of a controlled substance in any form in this or any other country.

(b) An application may be received beginning on January 1 of each year and shall be signed by the applicant or, in the case of a business entity, one of its officers, directors, or partners, as the case may be, and indicate that all information and documents submitted in support of the application are correct and complete to the best of the applicant's knowledge.

(c) Any incomplete application for a license, or an application received after April 1 of any year, shall be denied.

(d) In addition to the application form, each applicant for a license shall submit a fee set by the chairperson. If the fee does not accompany the application, the application for a license will be deemed incomplete.

(e) The annual license fee for production of industrial hemp shall be \$250 plus \$2 per acre. Moneys collected from license fees shall be used to cover the costs of implementing, administering, and enforcing this part.

(f) All licenses shall be valid for two years from the date of issuance, after which the licensee shall renew the license and pay the renewal fee, to be established by rules of the board.

(g) Any licensee who wishes to alter the growing areas on which the licensee will conduct industrial hemp cultivation shall, before altering the area, submit to the board an updated address, global positioning system location, and map specifying the proposed alteration. If the chairperson receives and approves the updated information, the chairperson shall notify the licensee in writing that the licensee may cultivate industrial hemp on the altered land area.

(h) A licensee that wishes to change the seed cultivar grown shall submit to the chairperson the name of the new, approved seed cultivar to be grown. If

the chairperson receives and approves the change to the seed cultivar, the chairperson shall notify the licensee that the licensee may cultivate the new, approved seed cultivar.

(i) If the chairperson determines that the requirements for a license pursuant to this part are satisfied, the chairperson shall issue a license to the applicant.

**§141-D Reports.** (a) At least seven days prior to harvest, each industrial hemp licensee shall file a report with the board that includes documentation that the licensee has entered into a purchase agreement with an industrial hemp processor. If the licensee has not entered into such an agreement, the licensee shall include a statement of intended disposition of its industrial hemp crop.

(b) Licensees shall report any subsequent changes to the purchase agreement or disposition statement to the board within ten days of the change.

(c) Two business days prior to the movement of the industrial hemp grain or plant material from the permitted location, the licensee shall submit to the board an application for movement permit. The application shall include the mode and location to which the product is to be transported. An inspection of the product may occur prior to movement.

**§141-E Approved seed cultivars.** (a) Industrial hemp shall be grown only if it is on the list of approved seed cultivars. The board may from time to time add or remove any seed cultivar from the list if the cultivar is found to be non-compliant with this part.

(b) The list of approved seed cultivars shall include the following:

- (1) Industrial hemp seed cultivars that have been certified by the Organisation for Economic Co-operation and Development; and
- (2) Hawaii varieties of industrial hemp seed cultivars that have been certified by the board.

**§141-F Growing of industrial hemp; licensee responsibilities.** The licensee shall:

- (1) Assume a limited agency relationship with the board for the sole purpose of research of industrial hemp and its growth, cultivation, and marketability. The licensee shall conduct all agricultural operations in a lawful manner consistent with the standards befitting of an official of the State; provided that such standards are subject to the sole discretion and direction of the board;
- (2) Abide by applicable laws and regulations incident to the growth, cultivation, or marketing of industrial hemp;
- (3) Acknowledge that any action, intended or incidental, that is contrary to such laws and regulations, known or unknown, falls outside the agency relationship of the licensee with the board and the licensee's participation in the industrial hemp pilot program; provided that this paragraph applies to all actions incident to the licensed production of industrial hemp, including but not limited to any sale or disposition of the resulting plants, plant materials, or seeds for which the licensee may otherwise receive some benefit or consideration;
- (4) Indemnify, hold harmless, and release forever the State and its departments, agencies, officers, employees, and agents of any kind from all liability claims arising out of the licensee's actions involving the growth, cultivation, or marketing of industrial hemp;

- (5) Warrant that the licensee is not an employee of the State and shall assume total and sole responsibility for any of the licensee's acts or omissions involving the growth or production of industrial hemp or arising out of the licensee's participation in the industrial hemp pilot program;
- (6) Allow any institution of higher education in the State to access those sites registered by the licensee with the board for production of industrial hemp; provided that such access shall be allowed upon notice from the board to the licensee and shall extend for all purposes determined at the discretion of the board related to research of industrial hemp and its growth, cultivation, and marketing;
- (7) Upon request, allow federal, state, or local authorities to inspect and sample the industrial hemp growing area, plants, plant materials, seeds, equipment, or facilities incident to the growth or production of industrial hemp;
- (8) Remit to the board all license fees and other expenses of the pilot program, including but not limited to all fees related to sampling and analysis of hemp plants and plant materials and destruction of resulting hemp crops found by the board to be non-compliant with applicable laws and regulations;
- (9) Agree that with respect to the licensee's production of industrial hemp, the board's role is to fulfill regulatory oversight of the production and, where possible, to facilitate receipt of viable seed; provided that the licensee understands and agrees that the licensee shall not receive compensation or wages from the board and the board shall not offer financial resources, tangible products, or commercial labor in support of the licensee's industrial hemp crop;
- (10) Adhere narrowly to the research focus for which the licensee is participating in the industrial hemp pilot program, if applicable, to include one or more of the following:
  - (A) Planting and growing – tracking vital statistics and yield rates with respect to industrial hemp varieties and growing variables, including seed planting rate, soil composition, water usage, and planting and growing season;
  - (B) Pest – tracking the occurrence of pests and effectiveness of various preventative measures in correlation with industrial hemp varieties;
  - (C) Cost centers and financing – tracking average cost estimates of producing industrial hemp varieties, taking into account costs of participation in the industrial hemp pilot program, product acquisition, water usage, equipment, labor, and security measures and reporting financial resources available for production of industrial hemp; or
  - (D) Marketing and industry development – reporting market demand for industrial hemp varieties' raw materials and end products, including identification of actual or potential hemp products, processors, product manufacturers, wholesalers, retailers, and targeted consumers;
- (11) Complete and submit all reports and statements requested by the board relative to the licensee's production of industrial hemp; provided that a failure to submit any required or requested report may result in revocation of the licensee's industrial hemp license;
- (12) Understand and agree that any industrial hemp grown in Hawaii without an active industrial hemp license issued by the board falls



outside the licensee's limited agency with the board, is considered to be marijuana under state law, and constitutes impermissible growth of industrial hemp under federal law; provided that the licensee shall understand that such action will be prosecuted in accordance with all applicable laws;

- (13) At the discretion of the board, destroy or dispose of any industrial hemp crop, plant, plant material, or seed determined by the board or law enforcement to be non-compliant with applicable laws or regulations;
- (14) Use best management practices for growth and production of industrial hemp, as available, and take reasonable precaution to prevent unauthorized growth or distribution of industrial hemp, including but not limited to:
  - (A) Keeping records of all persons with access to the growing area or hemp plants, plant materials, or seeds;
  - (B) Using case hardened locks and chains to limit access to storage areas where hemp plants, plant materials, or seeds are kept;
  - (C) Marking equipment and plants, if possible, with owner applied numbers;
  - (D) Blocking private access roads to the growing area with gates or barricades and posting "No Trespassing" signs on gates, barricades, and other landmarks near the growing area and facilities;
  - (E) Installing reasonable security measures to prevent theft and posting signs indicating that cameras are used to record activity on the growing area property;
  - (F) Inspecting and recording regularly the condition of the growing area, facilities, and equipment used in the production of industrial hemp;
  - (G) Conducting regular inventory counts of hemp plants, plant materials, and seeds in order to recognize more quickly if a theft has occurred;
  - (H) Contacting local law enforcement to help identify additional security measures and encourage patrols near the growing area;
  - (I) Reporting to local law enforcement any suspicious activity and the presence of strangers near the growing area or facility;
  - (J) Reporting stolen, lost, or missing hemp plants, plant materials, or seeds to the board and law enforcement authorities as soon as the items are noticed to be missing; and
  - (K) Reducing the likelihood of cross pollination between varieties of industrial hemp and among other plants by:
    - (i) Separating any growing area from other self-pollinating plants by more than ten feet;
    - (ii) Separating any growing area from other wind and insect pollinating plants by more than three hundred feet; and
    - (iii) Employing a physical barrier such as a hoop house or row cover to isolate industrial hemp from other plants; and
- (15) Comply with any direction of the chairperson with respect to the growth, cultivation, or marketing of industrial hemp not otherwise contemplated in this section.

**§141-G Inspections; fees.** (a) All licensees are subject to sampling of their industrial hemp crop to verify that the delta-9 tetrahydrocannabinol concentration does not exceed 0.3 per cent on a dry weight basis or a tetrahydrocannabinol concentration allowed by federal law, whichever is greater.

(b) During the inspection, the licensee or the licensee's authorized representative shall be present at the growing area. The licensee or authorized representative shall provide the board's inspector with complete and unrestricted access to all industrial hemp plants and seeds whether growing or harvested; all land, buildings, and other structures used for the cultivation and storage of industrial hemp; and all documents and records pertaining to the licensee's industrial hemp business.

(c) Sampling of industrial hemp plants shall occur in the following manner:

- (1) Samples of each variety of industrial hemp may be sampled from the growing areas at the board's discretion;
- (2) Quantitative laboratory determination of the delta-9 tetrahydrocannabinol concentration on a dry weight basis shall be performed according to protocols approved by the chairperson;
- (3) A sample test result greater than 0.3 per cent of delta-9 tetrahydrocannabinol concentration or a tetrahydrocannabinol concentration allowed by federal law, whichever is greater, shall be considered conclusive evidence that at least one cannabis plant or part of a plant in the growing area contains a delta-9 tetrahydrocannabinol concentration over the limit allowed for industrial hemp and that the licensee of that growing area is therefore not in compliance with this part. Upon receipt of such a test result, the chairperson may summarily suspend and revoke the license of an industrial hemp licensee. The chairperson shall furnish to the licensee a portion of the violative sample if the licensee requests it within thirty days of notification; and
- (4) Test results from an institution of higher education may, at the chairperson's discretion, be accepted in lieu of board sampling.

(d) Licensees shall pay a charge of \$35 per hour per inspector for actual drive time, mileage, inspection, and sampling time.

(e) Licensees shall reimburse the board for all laboratory analysis costs incurred.

**§141-H Violations.** In addition to any other violations of this part, the following acts and omissions by any licensee or authorized representative thereof constitute violations for which civil penalties up to \$500 and disciplinary sanctions, including revocation of a license, may be imposed by the chairperson:

- (1) Refusal or failure by a licensee or authorized representative to fully cooperate and assist the board with the inspection process;
- (2) Failure to provide any information required or requested by the board for purposes pursuant to this part;
- (3) Providing false, misleading, or incorrect information pertaining to the licensee's cultivation of industrial hemp to the chairperson by any means, including but not limited to information provided in any application form, report, record, or inspection required or maintained pursuant to this part;
- (4) Growing industrial hemp that when tested is shown to have a delta-9 tetrahydrocannabinol concentration greater than 0.3 per cent on a dry weight basis or a tetrahydrocannabinol concentration allowed by federal law, whichever is greater;

- (5) Failure to pay fees assessed by the chairperson for inspection or laboratory analysis costs; or
- (6) Possessing, outside of a field of lawful cultivation, resin, flowering tops, or leaves that have been removed from the hemp plant; provided that the presence of a de minimis amount, or insignificant number, of hemp leaves or flowering tops in hemp bales that result from the normal and appropriate processing of industrial hemp shall not apply to this paragraph.

**§141-I Profits.** The board shall forego any income or profit that licensees lawfully obtain through the disposition of the licensees' industrial hemp crop; provided that the licensee reports to the board, as required by this part:

- (1) Any movement of the licensee's industrial hemp plants, plant materials, or seeds outside the licensed growing area;
- (2) Any sale of or benefit received in exchange for the licensee's industrial hemp plants, plant materials, or seeds; and
- (3) Any commercial details of such movement, sale, or exchange for use by the board to research the marketability and logistical production of industrial hemp in the State.

**§141-J Rulemaking.** The board shall adopt rules concerning industrial hemp production no later than July 1, 2017, including rules establishing reasonable fees for licenses, permits, or other necessary expenses to defray the cost of implementing and operating the industrial hemp pilot program in this State on an ongoing basis."

SECTION 3. Chapter 141, Hawaii Revised Statutes, is amended by designating sections 141-1 to 141-11 as part I, entitled "General Provisions".

SECTION 4. Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

**"§712- Industrial hemp.** The possession, cultivation, sale, receipt, or transfer of industrial hemp as authorized under part of chapter 141 shall not constitute an offense under this part."

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$425,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the department of agriculture to effectuate this Act, and the sum shall be allocated as follows:

- (1) \$100,000 for the establishment of one full-time equivalent (1.0 FTE) program coordinator position;
- (2) \$75,000 for the establishment of one full-time equivalent (1.0 FTE) inspector position; and
- (3) \$250,000 for administrative costs of the industrial hemp pilot program.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 6. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 7. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on July 1, 2016, and shall be repealed on June 30, 2021.

(Approved July 7, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## A Bill for an Act Relating to Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Act 99, Session Laws of Hawaii 2013, established the Hawaii agriculture workforce advisory board to advise the department of labor and industrial relations on, among other things, projects and programs recommended to promote the expansion and development of the State's agricultural industry.

The purpose of this Act is to implement the recommendation of the Hawaii agriculture workforce advisory board that the State should create an agriculture workforce development pipeline initiative to conduct training on all islands for teachers and school administrators in agricultural self-sufficiency.

SECTION 2. Chapter 371, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§371- K-12 agriculture workforce development pipeline initiative. (a)**

There shall be created in the department a k-12 agriculture workforce development pipeline initiative to conduct training sessions for teachers and school administrators on the islands of Oahu, Hawaii, Maui, Molokai, Lanai, and Kauai, regarding agricultural self-sufficiency.

(b) The k-12 agriculture workforce development pipeline initiative shall be headed by a coordinator who shall be appointed by the director, subject to chapter 76, to carry out the purposes of this section, which may include developing and proposing scholarships, travel offsets, course credits, and stipends. The coordinator may hire, subject to chapter 76, necessary staff, including a workforce development specialist, to carry out the purposes of this section.

(c) Course material for the training sessions under subsection (a) shall be approved by the Hawaii agriculture workforce advisory board established pursuant to section 371-19.

(d) The department shall submit annual reports to the legislature on the activities of the k-12 agriculture workforce development pipeline initiative."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$200,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the development, operation, and implementation of the k-12 agriculture workforce development pipeline initiative, including the hiring of one full-time equivalent (1.0 FTE) coordinator.

The sum appropriated shall be expended by the department of labor and industrial relations for the purposes of this Act.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved July 7, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Medical Marijuana.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I

SECTION 1. The legislature finds that Act 241, Session Laws of Hawaii 2015, established a licensing scheme for a statewide system of medical marijuana dispensaries to ensure access to medical marijuana for qualifying patients.

The purpose of this Act is to:

- (1) Clarify and amend statutes pertaining to the dispensary system consistent with guidance provided in the August 29, 2013, memorandum to all United States Attorneys from Deputy Attorney General James M. Cole regarding the exercise of federal prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use;
- (2) Ensure the efficient and responsible operation of medical marijuana dispensaries; and
- (3) Further ensure access to medical marijuana for qualifying patients.

### PART II

SECTION 2. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§201- Medical marijuana; economic and other data; collection.** (a) The department shall continuously collect de-identified information regarding the medical marijuana registry and dispensary programs established pursuant to chapters 329 and 329D, including but not limited to information regarding the:

- (1) Quantities of marijuana cultivated and dispensed;
- (2) Number of qualifying patients;
- (3) Geographic areas in which marijuana is cultivated and consumed;
- (4) Prices of marijuana and related products;
- (5) Number of employment opportunities related to marijuana; and
- (6) Economic impact of marijuana cultivation and sales.

(b) The department of health and dispensaries licensed pursuant to chapter 329D shall provide de-identified aggregated data as required by the department pursuant to this section.

(c) Upon request, the department shall provide an analysis of the aggregated de-identified data to the department of health and the legislature.”

SECTION 3. Section 209E-2, Hawaii Revised Statutes, is amended by amending the definition of “eligible business activity” to read as follows:

““Eligible business activity” means the:

- (1) Manufacture of tangible personal property, the wholesale sale of tangible personal property as described in section 237-4, or a service business as defined in this section;
- (2) Production of agricultural products where the business is a producer as defined in section 237-5, or the processing of agricultural products, all or some of which were grown within an enterprise zone;
- (3) Research, development, sale, or production of all types of genetically-engineered medical, agricultural, or maritime biotechnology products; or

(4) Production of electric power from wind energy for sale primarily to a public utility company for resale to the public[-];  
provided that medical marijuana dispensary activities pursuant to chapter 329D shall not be considered an eligible business activity for the purposes of this chapter.”

SECTION 4. Section 235-2.4, Hawaii Revised Statutes, is amended to read as follows:

**“§235-2.4 Operation of certain Internal Revenue Code provisions; sections 63 to 530.** (a) Section 63 (with respect to taxable income defined) of the Internal Revenue Code shall be operative for the purposes of this chapter, subject to the following:

- (1) Section 63(c)(1)(B) (relating to the additional standard deduction), 63(c)(1)(C) (relating to the real property tax deduction), 63(c)(1)(D) (relating to the disaster loss deduction), 63(c)(1)(E) (relating to the motor vehicle sales tax deduction), 63(c)(4) (relating to inflation adjustments), 63(c)(7) (defining the real property tax deduction), 63(c)(8) (defining the disaster loss deduction), 63(c)(9) (defining the motor vehicle sales tax deduction), and 63(f) (relating to additional amounts for the aged or blind) of the Internal Revenue Code shall not be operative for purposes of this chapter;
  - (2) Section 63(c)(2) (relating to the basic standard deduction) of the Internal Revenue Code shall be operative, except that the standard deduction amounts provided therein shall instead mean:
    - (A) \$4,400 in the case of:
      - (i) A joint return as provided by section 235-93; or
      - (ii) A surviving spouse (as defined in section 2(a) of the Internal Revenue Code);
    - (B) \$3,212 in the case of a head of household (as defined in section 2(b) of the Internal Revenue Code);
    - (C) \$2,200 in the case of an individual who is not married and who is not a surviving spouse or head of household; or
    - (D) \$2,200 in the case of a married individual filing a separate return;
  - (3) Section 63(c)(5) (limiting the basic standard deduction in the case of certain dependents) of the Internal Revenue Code shall be operative, except that the limitation shall be the greater of \$500 or the individual's earned income; and
  - (4) The standard deduction amount for nonresidents shall be calculated pursuant to section 235-5.
- (b) Section 68 (with respect to the overall limitation on itemized deductions) of the Internal Revenue Code shall be operative; provided that the thresholds shall be those that were operative for federal tax year 2009.
- (c) Section 72 (with respect to annuities; certain proceeds of endowment and life insurance contracts) of the Internal Revenue Code shall be operative for purposes of this chapter and be interpreted with due regard to section 235-7(a), except that the ten per cent additional tax on early distributions from retirement plans in section 72(t) shall not be operative for purposes of this chapter.
- (d) Section 85 (with respect to unemployment compensation) of the Internal Revenue Code shall be operative for purposes of this chapter, except that section 85(c) shall not be operative for purposes of this chapter.
- (e) Section 108 (with respect to income from discharge of indebtedness) of the Internal Revenue Code shall be operative for purposes of this chapter,

except that section 108(i) (relating to deferral and ratable inclusion of income arising from business indebtedness discharged by the reacquisition of a debt instrument) shall not be operative for purposes of this chapter.

(f) Section 121 (with respect to exclusion of gain from sale of principal residence) of the Internal Revenue Code shall be operative for purposes of this chapter, except that for the election under section 121(f), a reference to section 1034 treatment means a reference to section 235-2.4(s) in effect for taxable year 1997.

(g) Section 132 (with respect to certain fringe benefits) of the Internal Revenue Code shall be operative for purposes of this chapter, except that the provision in section 132(f)(2) that equalizes the dollar amounts for ~~sections~~ section 132(f)(2)(A) and (B) shall not be operative and except that section 132(n) shall not apply to United States Department of Defense Homeowners Assistance Program payments authorized by the American Recovery and Reinvestment Act of 2009.

(h) Section 163 (with respect to interest) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that provisions in section 163(d)(4)(B) (defining net investment income to exclude dividends), section 163(e)(5)(F) (suspension of applicable high-yield discount obligation (AHYDO) rules) and section 163(i)(1) as it applies to debt instruments issued after January 1, 2010, (defining AHYDO) shall not be operative for the purposes of this chapter.

(i) Section 164 (with respect to taxes) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that:

- (1) Section 164(a)(6) and (b)(6) shall not be operative for the purposes of this chapter;
- (2) The deductions under section 164(a)(3) and (b)(5) shall not be operative for corporate taxpayers and shall be operative only for the following individual taxpayers:
  - (A) A taxpayer filing a single return or a married person filing separately with a federal adjusted gross income of less than \$100,000;
  - (B) A taxpayer filing as a head of household with a federal adjusted gross income of less than \$150,000; and
  - (C) A taxpayer filing a joint return or as a surviving spouse with a federal adjusted gross income of less than \$200,000; and
- (3) Section 164(a)(3) shall not be operative for any amounts for which the credit under section 235-55 has been claimed.

(j) Section 165 (with respect to losses) of the Internal Revenue Code shall be operative for purposes of this chapter, except that the amount prescribed by sections 165(h)(1) (relating to the limitation per casualty) of the Internal Revenue Code shall be a \$100 limitation per casualty, and section 165(h)(3)(A) and (B) (both of which relate to special rules for personal casualty gains and losses in federally declared disasters) of the Internal Revenue Code shall not be operative for the purposes of this chapter. Section 165 as operative for this chapter shall also apply to losses sustained from the sale of stocks or other interests issued through the exercise of the stock options or warrants granted by a qualified high technology business as defined in section 235-7.3.

(k) Section 168 (with respect to the accelerated cost recovery system) of the Internal Revenue Code shall be operative for purposes of this chapter, except that sections 168(j) (relating to property on Indian reservations), 168(k) (relating to the special allowance for certain property acquired during the period specified therein), 168(m) (relating to the special allowance for certain reuse and recycling property), and 168(n) (relating to the special allowance for qualified

disaster assistance property) of the Internal Revenue Code shall not be operative for purposes of this chapter.

(l) Section 172 (with respect to net operating loss deductions) of the Internal Revenue Code shall be operative for purposes of this chapter, as further provided in section 235-7(d), except that section 172(b)(1)(J) and (j) (both of which relate to qualified disaster losses) of the Internal Revenue Code shall not be operative for purposes of this chapter.

(m) Section 179 (with respect to the election to expense certain depreciable business assets) of the Internal Revenue Code shall be operative for purposes of this chapter, except as provided in this subsection:

- (1) The aggregate cost provided in section 179(b)(1), which may be taken into account under section 179(a) for any taxable year, shall not exceed \$25,000;
- (2) The amount at which the reduction in limitation provided in section 179(b)(2) begins shall exceed \$200,000 for any taxable year; and
- (3) The following shall not be operative for purposes of this chapter:
  - (A) Defining section 179 property to include computer software in section 179(d)(1);
  - (B) Inflation adjustments in section 179(b)(5);
  - (C) Irrevocable election in section 179(c)(2); and
  - (D) Special rules for qualified disaster assistance property in section 179(e).

(n) Section 198A (with respect to the expensing of qualified disaster assistances expenses) of the Internal Revenue Code shall not be operative for purposes of this chapter.

(o) Section 219 (with respect to retirement savings) of the Internal Revenue Code shall be operative for the purpose of this chapter. For the purpose of computing the limitation on the deduction for active participants in certain pension plans for state income tax purposes, adjusted gross income as used in section 219 as operative for this chapter means federal adjusted gross income.

(p) Section 220 (with respect to medical savings accounts) of the Internal Revenue Code shall be operative for the purpose of this chapter, but only with respect to medical services accounts that have been approved by the Secretary of the Treasury of the United States.

(q) Section 265 (with respect to expenses and interest relating to tax-exempt income) of the Internal Revenue Code shall be operative for purposes of this chapter; except that section 265(b)(3)(G) and (7) shall not be operative and section 265 shall not apply to expenses for royalties and other income derived from any patents, copyrights, and trade secrets by an individual or a qualified high technology business as defined in section 235-7.3. ~~[Such]~~ These expenses shall be deductible.

(r) Section 280E (with respect to expenditures in connection with the illegal sale of drugs) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that section 280E shall not be operative with respect to the production and sale of medical marijuana and manufactured marijuana products by dispensaries licensed under chapter 329D and their subcontractors, as defined in section 329D-1.

~~[(r)]~~ (s) Section 382 (with respect to limitation on net operating loss carryforwards and certain built-in losses following ownership change) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that section 382(n) shall not be operative for purposes of this chapter.

~~[(s)]~~ (t) Section 408A (with respect to Roth Individual Retirement Accounts) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that section 408A(d)(3)(A)(iii) shall not be operative for purposes



of this chapter. For the purposes of determining the aggregate amount of contributions to a Roth Individual Retirement Account or qualified rollover contribution to a Roth Individual Retirement Account from an individual retirement plan other than a Roth Individual Retirement Account, adjusted gross income as used in section 408A as operative for this chapter means federal adjusted gross income.

[(t)] (u) In administering the provisions of sections 410 to 417 (with respect to special rules relating to pensions, profit sharing, stock bonus plans, etc.), sections 418 to 418E (with respect to special rules for multiemployer plans), and sections 419 and 419A (with respect to treatment of welfare benefit funds) of the Internal Revenue Code, the department of taxation shall adopt rules under chapter 91 relating to the specific requirements under those sections and to other administrative requirements under those sections as may be necessary for the efficient administration of sections 410 to 419A.

In administering sections 401 to 419A (with respect to deferred compensation) of the Internal Revenue Code, Public Law 93-406, section 1017(i), shall be operative for the purposes of this chapter.

In administering section 402 (with respect to the taxability of beneficiary of employees' trust) of the Internal Revenue Code, the tax imposed on lump sum distributions by section 402(e) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter.

[(u)] (v) In administering section 403 (with respect to taxation of employee annuities) of the Internal Revenue Code, any funds that represent pre-tax employee deferrals or contributions that are distributed from the annuity and used solely to obtain retirement credits under the state employees' retirement system shall not be treated as a rollover for purposes of section 403(b)(8)(A) of the Internal Revenue Code, and those funds shall be subject to income tax under this chapter.

[(v)] (w) Section 451 (which provides general rules for taxable year of inclusion) of the Internal Revenue Code shall be operative, except that ~~[the provisions of sections]~~ section 451(i)(3) and [451(i)](6), as ~~[they relate]~~ it relates to a qualified electric utility, shall not be operative for purposes of this chapter.

[(w)] (x) In administering section 457 (with respect to compensation plans of state and local governments and tax-exempt organizations) of the Internal Revenue Code, any funds that represent pre-tax employee deferrals or contributions that are distributed from the deferred compensation plan and used solely to obtain retirement credits under the state employees' retirement system shall not be treated as a rollover for purposes of section 457(e)(16)(A) of the Internal Revenue Code and those funds shall be subject to income tax under this chapter.

[(x)] (y) Section 468B (with respect to special rules for designated settlement funds) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at a rate equal to the maximum rate in effect for the taxable year imposed on estates and trusts under section 235-51.

[(y)] (z) Section 469 (with respect to passive activities and credits limited) of the Internal Revenue Code shall be operative for the purposes of this chapter. For the purpose of computing the offset for rental real estate activities for state income tax purposes, adjusted gross income as used in section 469 as operative for this chapter means federal adjusted gross income.

[(z)] (aa) Sections 512 to 514 (with respect to taxation of business income of certain exempt organizations) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this subsection.

“Unrelated business taxable income” means the same as in the Internal Revenue Code, except that in the computation thereof sections 235-3 to 235-5, and 235-7 (except subsection (c)), shall apply, and in the determination of the net operating loss deduction there shall not be taken into account any amount of income or deduction that is excluded in computing the unrelated business taxable income. Unrelated business taxable income shall not include any income from a legal service plan.

For a person described in section 401 or 501 of the Internal Revenue Code, as modified by section 235-2.3, the tax imposed by section 235-51 or 235-71 shall be imposed upon the person’s unrelated business taxable income.

~~[(aa)]~~ **(bb)** Section 521 (with respect to cooperatives) and subchapter T (sections 1381 to 1388, with respect to cooperatives and their patrons) of the Internal Revenue Code shall be operative for the purposes of this chapter as to any cooperative fully meeting the requirements of section 421-23, except that Internal Revenue Code section 521 cooperatives need not be organized in Hawaii.

~~[(bb)]~~ **(cc)** Sections 527 (with respect to political organizations) and 528 (with respect to certain homeowners associations) of the Internal Revenue Code shall be operative for the purposes of this chapter and the taxes imposed in each section are hereby imposed by this chapter at the rates determined under section 235-71.

~~[(ee)]~~ **(dd)** Section 529 (with respect to qualified tuition programs) shall be operative for the purposes of this chapter, except that sections 529(c)(6) and 529(e)(3)(A)(iii) shall not be operative.

~~[(dd)]~~ **(ee)** Section 529A (with respect to qualified ABLE programs) shall be operative for the purposes of this chapter, except that section 529A(c)(3) (with respect to additional tax for distributions not used for disability expenses) shall not be operative.

~~[(ee)]~~ **(ff)** Section 530 (with respect to Coverdell education savings accounts) of the Internal Revenue Code shall be operative for the purposes of this chapter. For the purpose of determining the maximum amount that a contributor could make to an education individual retirement account for state income tax purposes, modified adjusted gross income as used in section 530 as operative for this chapter means federal modified adjusted gross income as defined in section 530.”

SECTION 5. Section 237-24.3, Hawaii Revised Statutes, is amended to read as follows:

**“§237-24.3 Additional amounts not taxable.** In addition to the amounts not taxable under section 237-24, this chapter shall not apply to:

- (1) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped for a producer or produce dealer on one island of this State to a person, firm, or organization on another island of this State. The terms “agricultural commodity”, “producer”, and “produce dealer” shall be defined in the same manner as they are defined in section 147-1; provided that agricultural commodities need not have been produced in the State;
- (2) Amounts received by the manager, submanager, or board of directors of:
  - (A) An association of owners of a condominium property regime established in accordance with chapter 514A or 514B; or
  - (B) A nonprofit homeowners or community association incorporated in accordance with chapter 414D or any predecessor

- thereto and existing pursuant to covenants running with the land,  
in reimbursement of sums paid for common expenses;
- (3) Amounts received or accrued from:
    - (A) The loading or unloading of cargo from ships, barges, vessels, or aircraft, whether or not the ships, barges, vessels, or aircraft travel between the State and other states or countries or between the islands of the State;
    - (B) Tugboat services including pilotage fees performed within the State, and the towage of ships, barges, or vessels in and out of state harbors, or from one pier to another; and
    - (C) The transportation of pilots or governmental officials to ships, barges, or vessels offshore; rigging gear; checking freight and similar services; standby charges; and use of moorings and running mooring lines;
  - (4) Amounts received by an employee benefit plan by way of contributions, dividends, interest, and other income; and amounts received by a nonprofit organization or office, as payments for costs and expenses incurred for the administration of an employee benefit plan; provided that this exemption shall not apply to any gross rental income or gross rental proceeds received after June 30, 1994, as income from investments in real property in this State; and provided further that gross rental income or gross rental proceeds from investments in real property received by an employee benefit plan after June 30, 1994, under written contracts executed prior to July 1, 1994, shall not be taxed until the contracts are renegotiated, renewed, or extended, or until after December 31, 1998, whichever is earlier. For the purposes of this paragraph, "employee benefit plan" means any plan as defined in section 1002(3) of title 29 of the United States Code, as amended;
  - (5) Amounts received for purchases made with United States Department of Agriculture food coupons under the federal food stamp program, and amounts received for purchases made with United States Department of Agriculture food vouchers under the Special Supplemental Foods Program for Women, Infants and Children;
  - (6) Amounts received by a hospital, infirmary, medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual; provided that this paragraph shall not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices. As used in this paragraph:

"Prescription drugs" are those drugs defined under section 328-1 and dispensed by filling or refilling a written or oral prescription by a practitioner licensed under law to administer the drug and sold by a licensed pharmacist under section 328-16 or practitioners licensed to administer drugs; ~~and~~ provided that "prescription drugs" shall not include marijuana or manufactured marijuana products authorized pursuant to chapters 329 and 329D.

"Prosthetic device" means any artificial device or appliance, instrument, apparatus, or contrivance, including their components, parts, accessories, and replacements thereof, used to replace a missing or surgically removed part of the human body, which is prescribed by a licensed practitioner of medicine, osteopathy, or podiatry and ~~which~~ that is sold by the practitioner or ~~which~~ that

is dispensed and sold by a dealer of prosthetic devices; provided that "prosthetic device" shall not mean any auditory, ophthalmic, dental, or ocular device or appliance, instrument, apparatus, or contrivance;

- (7) Taxes on transient accommodations imposed by chapter 237D and passed on and collected by operators holding certificates of registration under that chapter;
- (8) Amounts received as dues by an unincorporated merchants association from its membership for advertising media, promotional, and advertising costs for the promotion of the association for the benefit of its members as a whole and not for the benefit of an individual member or group of members less than the entire membership;
- (9) Amounts received by a labor organization for real property leased to:
  - (A) A labor organization; or
  - (B) A trust fund established by a labor organization for the benefit of its members, families, and dependents for medical or hospital care, pensions on retirement or death of employees, apprenticeship and training, and other membership service programs.

As used in this paragraph, "labor organization" means a labor organization exempt from federal income tax under section 501(c)(5) of the Internal Revenue Code, as amended;
- (10) Amounts received from foreign diplomats and consular officials who are holding cards issued or authorized by the United States Department of State granting them an exemption from state taxes; and
- (11) Amounts received as rent for the rental or leasing of aircraft or aircraft engines used by the lessees or renters for interstate air transportation of passengers and goods. For purposes of this paragraph, payments made pursuant to a lease shall be considered rent regardless of whether the lease is an operating lease or a financing lease. The definition of "interstate air transportation" is the same as in 49 U.S.C. section 40102."

SECTION 6. Section 329-43.5, Hawaii Revised Statutes, is amended to read as follows:

**"[§]329-43.5 Prohibited acts related to drug paraphernalia.** (a) ~~[It]~~ Except as provided in subsection (e), it is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter. Any person who violates this section is guilty of a class C felony and upon conviction may be imprisoned pursuant to section 706-660 and, if appropriate as provided in section 706-641, fined pursuant to section 706-640.

(b) ~~[It]~~ Except as provided in subsection (e), it is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver~~;~~ drug paraphernalia, knowing~~;~~ or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter. Any person who violates this section is guilty of a class C felony and upon conviction may

be imprisoned pursuant to section 706-660 and, if appropriate as provided in section 706-641, fined pursuant to section 706-640.

(c) Any person eighteen years of age or over who violates subsection (b) by delivering drug paraphernalia to a person or persons under eighteen years of age who are at least three years younger than that adult person is guilty of a class B felony and upon conviction may be imprisoned pursuant to section 706-660 and, if appropriate as provided in section 706-641, fined pursuant to section 706-640.

(d) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing[,] or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this section is guilty of a class C felony and upon conviction may be imprisoned pursuant to section 706-660 and, if appropriate as provided in section 706-641, fined pursuant to section 706-640.

(e) Subsections (a) and (b) shall not apply to a person who is authorized to:

- (1) Acquire, possess, cultivate, use, distribute, or transport marijuana pursuant to the definition of "medical use" under section 329-121, while the person is facilitating the medical use of marijuana by a qualifying patient; or
- (2) Dispense, manufacture, or produce marijuana or manufactured marijuana products pursuant to and in compliance with chapter 329D, while the person is facilitating the medical use of marijuana by a qualifying patient pursuant to part IX of chapter 329."

SECTION 7. Section 329-121, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read: "Advanced practice registered nurse" means an advanced practice registered nurse with prescriptive authority as described in section 457-8.6 and registered under section 329-32."

2. By amending the definition of "debilitating medical condition" to read:

"Debilitating medical condition" means:

- (1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions;
- (2) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following:
  - (A) Cachexia or wasting syndrome;
  - (B) Severe pain;
  - (C) Severe nausea;
  - (D) Seizures, including those characteristic of epilepsy;
  - (E) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis or Crohn's disease; or
  - (F) Post-traumatic stress disorder; or
- (3) Any other medical condition approved by the department of health pursuant to administrative rules in response to a request from a physician or advanced practice registered nurse or potentially qualifying patient."

3. By amending the definition of "physician" to read:

““Physician” means a person who is licensed to practice under chapter 453 and is licensed with authority to prescribe drugs and is registered under section 329-32. “Physician” does not include ~~[physician’s]~~ a physician assistant ~~[or advanced practice registered nurse with prescriptive authority]~~ as described in section 453-5.3 ~~[or 457-8.6].~~”

4. By amending the definition of “primary caregiver” to read:

““Primary caregiver” means a person eighteen years of age or older, other than the qualifying patient and the qualifying patient’s physician~~[-]~~ or advanced practice registered nurse, who has agreed to undertake responsibility for managing the well-being of the qualifying patient with respect to the medical use of marijuana. In the case of a minor or an adult lacking legal capacity, the primary caregiver shall be a parent, guardian, or person having legal custody.”

5. By amending the definition of “qualifying patient” to read:

““Qualifying patient” means a person who has been diagnosed by a physician or advanced practice registered nurse as having a debilitating medical condition.”

6. By amending the definition of “written certification” to read:

““Written certification” means the qualifying patient’s medical records or a statement signed by a qualifying patient’s physician~~[-]~~ or advanced practice registered nurse, stating that in the physician’s or advanced practice registered nurse’s professional opinion, the qualifying patient has a debilitating medical condition and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. The department of health may require, through its rulemaking authority, that all written certifications comply with a designated form. “Written certifications” are valid for only one year from the time of signing.”

SECTION 8. Section 329-122, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

“(a) Notwithstanding any law to the contrary, the medical use of marijuana by a qualifying patient shall be permitted only if:

- (1) The qualifying patient has been diagnosed by a physician or advanced practice registered nurse as having a debilitating medical condition;
- (2) The qualifying patient’s physician or advanced practice registered nurse has certified in writing that, in the physician’s or advanced practice registered nurse’s professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for the particular qualifying patient; and
- (3) The amount of marijuana possessed by the qualifying patient does not exceed an adequate supply.

(b) Subsection (a) shall not apply to a qualifying patient under the age of eighteen years, unless:

- (1) The qualifying patient’s physician or advanced practice registered nurse has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient; and
- (2) A parent, guardian, or person having legal custody consents in writing to:
  - (A) Allow the qualifying patient’s medical use of marijuana;
  - (B) Serve as the qualifying patient’s primary caregiver; and

(C) Control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.”

2. By amending subsection (d) to read:

“(d) For the purposes of this section, “transport” means the transportation of marijuana, usable marijuana, or any manufactured marijuana product between:

- (1) A qualifying patient and the qualifying patient’s primary caregiver; ~~[or]~~
- (2) The production centers and the retail dispensing locations under a dispensary licensee’s license; or
- (3) A production center or retail dispensing location and a certified laboratory for the purpose of laboratory testing;

provided that “transport” does not include the interisland transportation of marijuana, usable marijuana, or any manufactured marijuana product~~[-]~~, except when the transportation is performed for the sole purpose of laboratory testing pursuant to section 329D-8, as permitted under section 329D-6(m) and subject to section 329D-6(j), and with the understanding that state law and its protections do not apply outside of the jurisdictional limits of the State.”

SECTION 9. Section 329-123, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Physicians or advanced practice registered nurses who issue written certifications shall provide, in each written certification, the name, address, patient identification number, and other identifying information of the qualifying patient. The department of health shall require, in rules adopted pursuant to chapter 91, that all written certifications comply with a designated form completed by or on behalf of a qualifying patient. The form shall require information from the applicant, primary caregiver, and physician or advanced practice registered nurse as specifically required or permitted by this chapter. The form shall require the address of the location where the marijuana is grown and shall appear on the registry card issued by the department of health. The certifying physician or advanced practice registered nurse shall be required to have a bona fide physician-patient relationship or bona fide advanced practice registered nurse-patient relationship, as applicable, with the qualifying patient. All current active medical marijuana permits shall be honored through their expiration date.

(b) Qualifying patients shall register with the department of health. The registration shall be effective until the expiration of the certificate issued by the department of health and signed by the physician~~[-]~~ or advanced practice registered nurse. Every qualifying patient shall provide sufficient identifying information to establish the personal identities of the qualifying patient and the primary caregiver. Qualifying patients shall report changes in information within ten working days. Every qualifying patient shall have only one primary caregiver at any given time. The department of health shall issue to the qualifying patient a registration certificate, and shall charge \$35 per year.”

SECTION 10. Section 329-125, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A qualifying patient or the primary caregiver may assert the medical use of marijuana authorized under this part as an affirmative defense to any prosecution involving marijuana under this ~~[part]~~ or part IV; or part IV of chapter 712; provided that the qualifying patient or the primary caregiver strictly complied with the requirements of this part.”

SECTION 11. Section 329-125.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) An owner or employee of a medical marijuana dispensary that is licensed under chapter 329D may assert the production or distribution of medical marijuana as an affirmative defense to any prosecution involving marijuana under this part[;] or part IV; chapter 329D[;]; or part IV of chapter 712; provided that the owner or employee strictly complied with the requirements of chapter 329D and any administrative rules adopted thereunder.”

SECTION 12. Section 329-126, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§329-126]]~~ **Protections afforded to a treating physician[;] or advanced practice registered nurse.** No physician or advanced practice registered nurse shall be subject to arrest or prosecution, penalized in any manner, or denied any right or privilege for providing written certification for the medical use of marijuana for a qualifying patient; provided that:

- (1) The physician or advanced practice registered nurse has diagnosed the patient as having a debilitating medical condition, as defined in section 329-121;
- (2) The physician or advanced practice registered nurse has explained the potential risks and benefits of the medical use of marijuana, as required under section 329-122;
- (3) The written certification is based upon the physician's or advanced practice registered nurse's professional opinion after having completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship[;] or bona fide advanced practice registered nurse-patient relationship, as applicable; and
- (4) The physician or advanced practice registered nurse has complied with the registration requirements of section 329-123.”

SECTION 13. Section 329-128, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Notwithstanding any law to the contrary, fraudulent misrepresentation to a law enforcement official of any fact or circumstance relating to the issuance of a written certificate by a physician or advanced practice registered nurse not covered under section 329-126 for the medical use of marijuana shall be a misdemeanor. This penalty shall be in addition to any other penalties that may apply for the non-medical use of marijuana. Nothing in this section is intended to preclude the conviction of any person under section 710-1060 or for any other offense under part V of chapter 710.”

SECTION 14. Section 329D-1, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

““Enclosed indoor facility” means a permanent, stationary structure with a solid floor, rigid exterior walls that encircle the entire structure on all sides, and a roof that protects the entire interior area from any exterior view and elements of weather; provided that the roof of an enclosed indoor facility utilized as a production center pursuant to a medical marijuana dispensary license application or license renewal application submitted after January 29, 2016, may be partially or completely transparent or translucent. An enclosed indoor fa-



cility excludes a greenhouse or shade house that does not comply with these requirements. Nothing in this definition shall be construed to relieve a medical marijuana dispensary license applicant or license renewal applicant of the duty to comply with all applicable building codes and regulations.

“Subcontractor” or “contractor” means any person or entity with whom the dispensary licensee has a contract to perform any of its production center or retail dispensing location operations; provided that it does not include a person or entity retained by a dispensary licensee to perform services ancillary to the operations of a dispensary, including but not limited to construction, installation, or maintenance of the dispensary’s facility, security systems, or tracking system, and laboratory testing.”

2. By amending the definition of “manufactured marijuana product” to read:

““Manufactured marijuana product” means any capsule, lozenge, oil or oil extract, tincture, ointment or skin lotion, [ø] pill, transdermal patch, or pre-filled and sealed container used to aerosolize and deliver marijuana orally, such as an inhaler or nebulizer, that has been manufactured using marijuana[-], or any other products as specified by the department pursuant to section 329D-10(a)(9).”

SECTION 15. Section 329D-2, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) Up to two production centers shall be allowed under each dispensary license, provided that each production center shall be limited to no more than three thousand marijuana plants. For purposes of this subsection, “plant” means a marijuana plant that is greater than twelve vertical inches in height from where the base of the stalk emerges from the growth medium to the tallest point of the plant, or greater than twelve horizontal inches in width from the end of one branch to the end of another branch; provided that multiple stalks emanating from the same root ball or root system shall be considered part of the same single plant.”

SECTION 16. Section 329D-6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (e), (f), and (g) to read:

“(e) Retail dispensing locations shall not be open for retail sales before 8:00 a.m. or after 8:00 p.m., Hawaii-Aleutian Standard Time, Monday through [Saturday.] Sunday. Retail dispensing locations shall be closed on [Sundays and] official state and federal holidays.

(f) All dispensary facilities, including but not limited to production centers and retail dispensing locations, shall be enclosed indoor facilities and shall maintain twenty-four hour security measures, including but not limited to an alarm system, video monitoring and recording on the premises, and exterior lighting. A dispensary licensee who intends to utilize, as a production center, an enclosed indoor facility that includes a roof that is partially or completely transparent or translucent, as provided under section 329D-1, shall notify the department of that intention prior to altering or constructing the facility. Production centers shall remain locked at all times. Retail dispensing locations shall remain locked at all times, other than business hours as authorized by subsection (e), and shall only be opened for authorized persons.

(g) In all dispensary facilities, only the licensee, if an individual, [the] registered employees of the dispensary licensee, [and the] registered employees of [the] a subcontracted production center or retail dispensing [locations] location, employees of a certified laboratory for testing purposes, state employees

authorized by the director of health, and law enforcement and other government officials acting in their official capacity shall be permitted to touch or handle any marijuana or manufactured marijuana products, except that a qualifying patient or the primary caregiver of a qualifying patient may receive manufactured marijuana products at a retail dispensing location following completion of a sale.”

2. By amending subsection (m) to read:

“(m) A dispensary shall not transport marijuana or manufactured marijuana products to another county or another island[-]; provided that this subsection shall not apply to the transportation of marijuana or any manufactured marijuana product solely for the purposes of laboratory testing pursuant to section 329D-8, and subject to subsection (j), if no certified laboratory is located in the county or on the island where the dispensary is located; provided further that a dispensary shall only transport samples of marijuana and manufactured marijuana products for laboratory testing for purposes of this subsection in an amount and manner prescribed by the department, in rules adopted pursuant to this chapter, and with the understanding that state law and its protections do not apply outside of the jurisdictional limits of the State.”

SECTION 17. Section 329D-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The types of medical marijuana products that may be manufactured and distributed pursuant to this chapter shall be limited to:

- (1) Capsules;
- (2) Lozenges;
- (3) Pills;
- (4) Oils and oil extracts;
- (5) Tinctures;
- (6) Ointments and skin lotions; [and]
- (7) Transdermal patches;
- (8) Pre-filled and sealed containers used to aerosolize and deliver marijuana orally, such as with an inhaler or nebulizer; and
- [ (7) ] (9) Other products as specified by the department.”

SECTION 18. Section 329D-12, Hawaii Revised Statutes, is amended to read as follows:

~~“[§329D-12]] Background checks. [Each applicant and licensee for a medical marijuana dispensary license, including the individual applicant and all officers, directors, shareholders with at least twenty-five per cent ownership interest or more, members, and managers of an entity applicant; each employee of a medical marijuana dispensary; each subcontracted production center and retail dispensing location employee; all officers, directors, shareholders with at least twenty-five per cent ownership interest or more in a subcontracted production center or retail dispensing location; and any person permitted to enter and remain in dispensary facilities pursuant to section 329D-15(a)(4) or 329D-16(a)(3).] (a) The following shall be subject to background checks conducted by the department or its designee, including but not limited to criminal history record checks in accordance with section 846-2.7[-];~~

- (1) Each applicant and licensee for a medical marijuana dispensary license, including the individual applicant and all officers, directors, shareholders with at least twenty-five per cent or more ownership interest, members, and managers of an entity applicant;
- (2) Each employee of a medical marijuana dispensary;

- (3) Each employee of a subcontracted production center or retail dispensing location;
- (4) All officers, directors, shareholders with at least twenty-five per cent or more ownership interest in a subcontracted production center or retail dispensing location; and
- (5) Any person permitted to enter and remain in dispensary facilities pursuant to section 329D-15(a)(4) or 329D-16(a)(3).

The person undergoing the background check shall provide written consent and all applicable processing fees to the department or its designee to conduct the background checks.

- (b) This section shall not apply to:
  - (1) Qualifying patients and their primary caregivers who enter or remain on the premises of a retail dispensing location for the purpose of a transaction conducted pursuant to sections 329D-6 and 329D-13; or
  - (2) Government officials and employees acting in an official capacity and employees of a certified laboratory who enter or remain on the premises of a retail dispensing location or production center for any purpose authorized by this chapter."

SECTION 19. Section 329D-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The following shall be subject to background checks conducted by the department or its designee, including but not limited to criminal history record checks in accordance with section 846-2.7:

- (1) Each applicant and licensee for a medical marijuana dispensary license, including the individual applicant and all officers, directors, members of a limited liability corporation; shareholders with at least twenty-five per cent or more ownership interest ~~in a corporation;~~ in a corporation; and managers of an entity applicant;
- (2) Each employee of a medical marijuana dispensary;
- (3) Each employee of a subcontracted production center or retail dispensing location;
- (4) All officers, directors, members of a limited liability corporation; and shareholders with at least twenty-five per cent or more ownership interest in a corporate owner of a subcontracted production center or retail dispensing location; and
- (5) Any person permitted to enter and remain in a dispensary ~~facility~~ facilities pursuant to section 329D-15(a)(4) or 329D-16(a)(3).

The person undergoing the background check shall provide written consent and all applicable processing fees to the department or its designee to conduct the background checks."

SECTION 20. Section 329D-27, Hawaii Revised Statutes, is amended to read as follows:

"~~[[~~**§329D-27**~~]]~~ **Administrative rules.** (a) The department shall adopt rules pursuant to chapter 91 to effectuate the purposes of this chapter.

(b) No later than January 4, 2016, the department shall adopt interim rules, which shall be exempt from chapter 91 and chapter 201M, to effectuate the purposes of this chapter; provided that the interim rules shall remain in effect until July 1, 2018, or until rules are adopted pursuant ~~[[to]]~~ subsection (a), whichever occurs sooner.

(c) The department may amend the interim rules, and the amendments shall be exempt from chapters 91 and 201M, to effectuate the purposes of this chapter; provided that any amended interim rules shall remain in effect until July 1, 2018, or until rules are adopted pursuant to subsection (a), whichever occurs sooner.

### PART III

SECTION 21. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

**“§304A- Medical marijuana testing and research programs; established.** (a) To the extent permitted by federal and state law, and subject to applicable certification by the department of health, the University of Hawaii may establish medical marijuana testing and research programs that qualify as commercial enterprises of the university under section 304A-113 that provide services to state-approved medical marijuana dispensaries, including assessment of marijuana plant cannabinoid content and concentration, purity of manufactured marijuana products, or additional testing requested by the department of health. The university may assess fees or other charges for services. The fees and charges shall be fair and equitable with respect to the level and quality of services and commercially reasonable. In establishing or amending fees or charges for these services, the university shall be exempt from the requirements of chapter 91. The fees and charges may be established at an open meeting of the board of regents subject to chapter 92.

(b) The fees and charges collected pursuant to subsection (a) shall be deposited into the University of Hawaii commercial enterprises revolving fund established by section 304A-2251.

(c) To the extent permitted by federal and state law, and subject to applicable regulations, compliance standards, and protocols on research activity, the university may conduct research on the efficacy of medical marijuana use, its health outcomes and social impacts, and related safety issues.

(d) This section shall be construed to provide discretionary authority to the university, and nothing in this section shall require the university to engage in any activity that might jeopardize its eligibility to receive any form of state or federal assistance or benefit.”

SECTION 22. Section 304A-2251, Hawaii Revised Statutes, is amended to read as follows:

**“§304A-2251 University of Hawaii commercial enterprises revolving fund.** There is established the University of Hawaii commercial enterprises revolving fund into which shall be deposited all revenues derived from the operation of commercial enterprises by university programs[-] and all fees and charges collected pursuant to section 304A-\_\_. Revenues deposited into this fund may be expended by the university for all costs and expenses associated with the operation of the enterprises, including hiring personnel, renovating commercial space, and purchasing merchandise, supplies, and equipment, without regard to chapters 76, 78, 89, 103, and 103D. Any law to the contrary notwithstanding, the university may transfer all funds at its disposal, with the exception of general funds and University of Hawaii tuition and fees special fund moneys, into the revolving fund to finance the establishment of new commercial enterprises; except that no more than ten per cent of the tuition and fees special fund moneys

may be loaned to the revolving fund to finance the establishment of new commercial enterprises. Revenues not expended as provided in this section may be transferred to other university funds to be expended for the general benefit of the university."

#### PART IV

SECTION 23. (a) There is established within the public policy center in the college of social sciences at the University of Hawaii at Manoa for administrative purposes a legislative oversight working group to develop and recommend legislation to improve the medical marijuana dispensary system in the State to ensure safe and legal access to medical marijuana for qualifying patients.

(b) The working group shall include the following members:

- (1) The director of health, or the director's designee;
- (2) The director of transportation, or the director's designee;
- (3) The chairperson of the senate committee on commerce, consumer protection, and health, who shall serve as co-chair of the working group;
- (4) The chairperson of the house of representatives committee on health, who shall serve as co-chair of the working group;
- (5) A state senator who is selected by the president of the senate to serve on the working group;
- (6) A state representative who is selected by the speaker of the house of representatives to serve on the working group;
- (7) A representative from the University of Hawaii college of tropical agriculture and human resources or University of Hawaii cancer center, who shall be invited by the president of the University of Hawaii to serve on the working group;
- (8) A representative of the Drug Policy Forum of Hawaii, who shall be invited by the speaker of the house of representatives to serve on the working group;
- (9) A physician participating in Hawaii's medical marijuana program, who shall be invited by the president of the senate to serve on the working group;
- (10) Two participants in Hawaii's medical marijuana program, one of whom is a qualifying patient who is over the age of eighteen, and one of whom is a parent or guardian of a qualifying patient who is under the age of ten, who shall be invited by the governor to serve on the working group;
- (11) A primary caregiver participating in Hawaii's medical marijuana program, who shall be invited by the president of the senate to serve on the working group;
- (12) An advanced practice registered nurse participating in Hawaii's medical marijuana program, who shall be invited by the speaker of the house of representatives to serve on the working group;
- (13) Two representatives of the Hawaii Dispensary Alliance, one of whom is a resident of the city and county of Honolulu, who shall be invited by the president of the senate to serve on the working group, and one of whom is a resident of a county in the State other than the city and county of Honolulu, who shall be invited by the speaker of the house of representatives to serve on the working group;
- (14) Two representatives of the medical marijuana dispensary industry, one from each of the remaining counties not represented pursuant to paragraph (13), one of whom shall be invited by the president of

the senate to serve on the working group, and one of whom shall be invited by the speaker of the house of representatives to serve on the working group;

- (15) One representative from a laboratory capable of testing marijuana or manufactured marijuana products, who shall be invited by the governor to serve on the working group; and
- (16) Two representatives of local law enforcement, one of whom is an officer for the Honolulu police department, who shall be invited by the speaker of the house of representatives to serve on the working group, and one of whom is an officer for a police department on a neighbor island, who shall be invited by the president of the senate to serve on the working group.

(c) The working group shall address issues related to the medical marijuana dispensary program in the State, including operations, edibles, and any issues the working group finds relevant as it relates to the medical marijuana dispensary program.

(d) The working group is requested to submit an interim report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2017, and a final report of the working group's findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2018.

(e) The members of the working group shall serve without compensation.

(f) The legislative oversight working group shall cease to exist on June 30, 2018.

## PART V

SECTION 24. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 25. This Act shall take effect on July 1, 2016; provided that:

- (1) Section 4 shall apply to taxable years beginning after December 31, 2015; and
- (2) Section 19 shall take effect on January 1, 2017, and shall not apply to medical marijuana dispensary license applications submitted on or before January 29, 2016; provided that section 19 shall apply to medical marijuana dispensary license renewal applications and to medical marijuana license applications submitted after January 29, 2016.

(Approved July 11, 2016.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 231

H.B. NO. 2561

A Bill for an Act Relating to the Administration of Justice.

*Be It Enacted by the Legislature of the State of Hawaii:*

## PART I

SECTION 1. The legislature finds that house concurrent resolution no. 155, S.D. 1, (2015), requested the judicial council to appoint a committee

to review and recommend revisions to the Hawaii penal code to help ensure that grades of offenses and punishment are fair and proportionate to the crime committed, with particular attention paid to provisions that base culpability on dollar amounts. The committee was also asked to consider revisions that are cost-effective in deterring crime, reducing recidivism, and providing restitution to victims in a manner that provides equal justice and punishment, regardless of socioeconomic class or ethnicity.

Accordingly, the judicial council convened a penal code review committee comprising twenty-nine members, including judges from appellate, circuit, and district courts; the chair of the senate committee on judiciary and labor; the chair of the house judiciary committee; the attorney general; the director of public safety; the prosecuting attorneys for the counties of Hawaii, Kauai, and Maui; a representative of the prosecuting attorney for the city and county of Honolulu; a representative of the office of the public defender; representatives from the Honolulu police department; a representative of the office of Hawaiian affairs; a member of the judicial council; representatives of the criminal defense bar; crime victim advocates; and community advocates. Five subcommittees were formed, and each subcommittee convened numerous times to consider and prepare proposed revisions to designated parts of the penal code and to related statutes outside the penal code, for submission to the entire committee. The penal code review committee met in plenary session seven times between June 19 and December 18, 2015, and recommended the legislation proposed by this Act.

The purpose of this Act is to amend various chapters of the Hawaii penal code, and related statutes outside the penal code, pursuant to the recommendations of the penal code review committee.

## PART II

SECTION 2. The purpose of this part is to amend chapter 704, Hawaii Revised Statutes, regarding penal responsibility and fitness to proceed, to:

- (1) Limit the period of conditional release of defendants acquitted by reason of physical or mental disease, disorder, or defect in non-felony cases to no more than one year because that is the longest term of incarceration that may be imposed upon a conviction in those cases;
- (2) Require that examination reports regarding a defendant's fitness to proceed to trial be provided to the director of health;
- (3) Clarify that a defendant's right to bail and proceedings under chapter 804, Hawaii Revised Statutes, are not suspended when a court suspends pretrial proceedings due to questions about the defendant's physical or mental capacity;
- (4) Provide courts with discretion to decide whether records of a forensic examination shall be provided to the prosecution and defense in hard copy or digital format;
- (5) Permit the defendant to be examined while in custody or on release;
- (6) Provide courts with discretion to decide whether a forensic examination is necessary when a defendant seeks only to modify conditions of release; and to order temporary hospitalization without revocation of a defendant's conditional release; and
- (7) Add references to appropriate statutory authority for involuntary hospitalization and assisted community treatment criteria.

This part also seeks to improve the timeliness and efficiency of forensic examinations. Because the department of health presently lacks the personnel to participate in all forensic examination panels, this part temporarily amends

section 704-404(2), Hawaii Revised Statutes, to repeal the requirement that one member of the panels be appointed from within the department. Mandatory participation in forensic examinations will be restored in two years, which will give the department time to address its personnel shortages.

SECTION 3. Chapter 704, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§704- Conditional release; duration limited in nonfelony cases.** For any defendant granted conditional release in a nonfelony case pursuant to section 704-411(1)(b), 704-412, 704-414, or 704-415, the period of conditional release shall not exceed one year.

**§704- Examination reports; provided to director of health.** Copies of all examination reports made pursuant to sections 704-404, 704-406, 704-411, and 704-414 shall be provided to the director of health.”

SECTION 4. Section 704-404, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (1) and (2) to read:

“(1) Whenever the defendant has filed a notice of intention to rely on the defense of physical or mental disease, disorder, or defect excluding responsibility, or there is reason to doubt the defendant’s fitness to proceed, or reason to believe that the physical or mental disease, disorder, or defect of the defendant will or has become an issue in the case, the court may immediately suspend all further proceedings in the prosecution~~[-];~~ provided that for any defendant not subject to an order of commitment to a hospital for the purpose of the examination, neither the right to bail nor proceedings pursuant to chapter 804 shall be suspended. If a trial jury has been empanelled, it shall be discharged or retained at the discretion of the court. The discharge of the trial jury shall not be a bar to further prosecution.

(2) Upon suspension of further proceedings in the prosecution, the court shall appoint three qualified examiners in felony cases, and one qualified examiner in nonfelony cases, to examine and report upon the physical and mental condition of the defendant. In felony cases, the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third member may be a psychiatrist, licensed psychologist, or qualified physician. One of the three shall be a psychiatrist or licensed psychologist designated by the director of health ~~[from within the department of health]~~. In nonfelony cases, the court may appoint either a psychiatrist or a licensed psychologist. All examiners shall be appointed from a list of certified examiners as determined by the department of health. The court, in appropriate circumstances, may appoint an additional examiner or examiners. The examination may be conducted ~~[on an out-patient basis]~~ while the defendant is in custody or on release or, in the court’s discretion, when necessary the court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period not exceeding thirty days, or ~~[such]~~ a longer period as the court determines to be necessary for the purpose. The court may direct that one or more qualified physicians or psychologists retained by the defendant be permitted to witness the examination. As used in this section, the term “licensed psychologist” includes psychologists exempted from licensure by section 465-3(a)(3).”

2. By amending subsection (8) to read:

“(8) The court shall obtain all existing medical, mental health, social, police, and juvenile records, including those expunged, and other pertinent



records in the custody of public agencies, notwithstanding any other [statutes,] statute, and make [such] the records available for inspection by the examiners[.] in hard copy or digital format. The court may order that the records so obtained be made available to the prosecuting attorney and counsel for the defendant in either format, subject to conditions the court determines appropriate; provided that juvenile records shall not be made available unless constitutionally required. If, pursuant to this section, the court orders the defendant committed to a hospital or other suitable facility under the control of the director of health, then the county police departments shall provide to the director of health and the defendant copies of all police reports from cases filed against the defendant [which] that have been adjudicated by the acceptance of a plea of guilty or no contest, a finding of guilt, acquittal, acquittal pursuant to section 704-400, or by the entry of plea of guilty or no contest made pursuant to chapter 853[~~;- so long as~~]; provided that the disclosure to the director of health and the defendant does not frustrate a legitimate function of the county police departments, with the exception of expunged records, records of or pertaining to any adjudication or disposition rendered in the case of a juvenile, or records containing data from the United States National Crime Information Center. The county police departments shall segregate or sanitize from the police reports information that would result in the likelihood or actual identification of individuals who furnished information in connection with its investigation, or who were of investigatory interest. Records shall not be re-disclosed except to the extent permitted by law."

SECTION 5. Section 704-404, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Upon suspension of further proceedings in the prosecution, the court shall appoint three qualified examiners in felony cases, and one qualified examiner in nonfelony cases, to examine and report upon the physical and mental condition of the defendant. In felony cases, the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third member may be a psychiatrist, licensed psychologist, or qualified physician. One of the three shall be a psychiatrist or licensed psychologist designated by the director of health[.] from within the department of health. In nonfelony cases, the court may appoint either a psychiatrist or a licensed psychologist. All examiners shall be appointed from a list of certified examiners as determined by the department of health. The court, in appropriate circumstances, may appoint an additional examiner or examiners. The examination may be conducted while the defendant is in custody or on release or, in the court's discretion, when necessary the court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period not exceeding thirty days, or a longer period as the court determines to be necessary for the purpose. The court may direct that one or more qualified physicians or psychologists retained by the defendant be permitted to witness the examination. As used in this section, the term "licensed psychologist" includes psychologists exempted from licensure by section 465-3(a)(3)."

SECTION 6. Section 704-406, Hawaii Revised Statutes, is amended to read as follows:

**"§704-406 Effect of finding of unfitness to proceed.** (1) If the court determines that the defendant lacks fitness to proceed, the proceeding against the defendant shall be suspended, except as provided in section 704-407, and the court shall commit the defendant to the custody of the director of health to be

placed in an appropriate institution for detention, care, and treatment; provided that the commitment shall be limited in certain cases as follows:

- (a) When the defendant is charged with a petty misdemeanor not involving violence or attempted violence, the commitment shall be limited to no longer than sixty days from the date the court determines the defendant lacks fitness to proceed; and
- (b) When the defendant is charged with a misdemeanor not involving violence or attempted violence, the commitment shall be limited to no longer than one hundred twenty days from the date the court determines the defendant lacks fitness to proceed.

If the court is satisfied that the defendant may be released on conditions without danger to the defendant or to the person or property of others, the court shall order the defendant's release, which shall continue at the discretion of the court, on conditions the court determines necessary; provided that the release on conditions of a defendant charged with a petty misdemeanor not involving violence or attempted violence shall continue for no longer than sixty days, and the release on conditions of a defendant charged with a misdemeanor not involving violence or attempted violence shall continue for no longer than one hundred twenty days. A copy of ~~[the report]~~ all reports filed pursuant to section 704-404 shall be attached to the order of commitment or order of release on conditions~~[-]~~ that is provided to the department of health. When the defendant is committed to the custody of the director of health for detention, care, and treatment, the county police departments shall provide to the director of health and the defendant copies of all police reports from cases filed against the defendant that have been adjudicated by the acceptance of a plea of guilty or nolo contendere, a finding of guilt, acquittal, acquittal pursuant to section 704-400, or by the entry of a plea of guilty or nolo contendere made pursuant to chapter 853~~[-so long as]; provided that~~ the disclosure to the director of health and the defendant does not frustrate a legitimate function of the county police departments; provided further that expunged records, records of or pertaining to any adjudication or disposition rendered in the case of a juvenile, or records containing data from the United States National Crime Information Center shall not be provided. The county police departments shall segregate or sanitize from the police reports information that would result in the ~~[likely]~~ or actual identification of individuals who furnished information in connection with the investigation or who were of investigatory interest. Records shall not be re-disclosed except to the extent permitted by law.

(2) When the defendant is released on conditions after a finding of unfitness to proceed, the department of health shall establish and monitor a fitness restoration program consistent with conditions set by the court order of release, and shall inform the prosecuting attorney of the county that charged the defendant of the program and report the defendant's compliance therewith.

~~[(3)]~~ When the court, on its own motion or upon the application of the director of health, the prosecuting attorney, or the defendant, determines, after a hearing if a hearing is requested, that the defendant has regained fitness to proceed, the penal proceeding shall be resumed. If, however, the court is of the view that so much time has elapsed since the commitment or release on conditions of the defendant that it would be unjust to resume the proceeding, the court may dismiss the charge and:

- (a) Order the defendant to be discharged;
- (b) Subject to ~~[the law governing the involuntary civil commitment of persons affected by physical or mental disease, disorder, or defect,]~~ section 334-60.2 regarding involuntary hospitalization criteria, or-

der the defendant to be committed to the custody of the director of health to be placed in an appropriate institution for detention, care, and treatment; or

- (c) Subject to ~~[the law governing involuntary outpatient treatment,]~~ section 334-121 regarding assisted community treatment criteria, order the defendant to be released on conditions the court determines necessary.

[(4)] If a defendant committed to the custody of the director of health for a limited period pursuant to subsection (1) is not found fit to proceed prior to the expiration of the commitment, the charge for which the defendant was committed for a limited period shall be dismissed. Upon dismissal of the charge, the defendant shall be released from custody unless the defendant is subject to prosecution for other charges~~[, in which case, unless the defendant is subject to the law governing involuntary civil commitment,]~~ or subject to section 334-60.2 regarding involuntary hospitalization criteria, in which case the court shall order the defendant's commitment to the custody of the director of health to be placed in an appropriate institution for detention, care, and treatment. Within a reasonable time following any other commitment under subsection (1), the director of health shall report to the court on whether the defendant presents a substantial likelihood of becoming fit to proceed in the future. The court, in addition, may appoint a panel of three qualified examiners in felony cases or one qualified examiner in nonfelony cases to make a report. If, following [a] the report, the court determines that the defendant probably will remain unfit to proceed, the court may dismiss the charge and:

- (a) Release the defendant; or
- (b) Subject to ~~[the law governing involuntary civil commitment,]~~ section 334-60.2 regarding involuntary hospitalization criteria, order the defendant to be committed to the custody of the director of health to be placed in an appropriate institution for detention, care, and treatment.

[(5)] If a defendant released on conditions for a limited period pursuant to subsection (1) is not found fit to proceed prior to the expiration of the release on conditions order, the charge for which the defendant was released on conditions for a limited period shall be dismissed. Upon dismissal of the charge, the defendant shall be discharged from the release on conditions unless the defendant is subject to prosecution for other charges or subject to ~~[the law governing involuntary civil commitment,]~~ section 334-60.2 regarding involuntary hospitalization criteria, in which case the court shall order the defendant's commitment to the custody of the director of health to be placed in an appropriate institution for detention, care, and treatment. Within a reasonable time following any other release on conditions under subsection (1), the court shall appoint a panel of three qualified examiners in felony cases or one qualified examiner in nonfelony cases to report to the court on whether the defendant presents a substantial likelihood of becoming fit to proceed in the future. If, following the report, the court determines that the defendant probably will remain unfit to proceed, the court may dismiss the charge and:

- (a) Release the defendant; or
- (b) Subject to ~~[the law governing involuntary civil commitment,]~~ section 334-60.2 regarding involuntary hospitalization criteria, order the defendant to be committed to the custody of the director of health to be placed in an appropriate institution for detention, care, and treatment."

SECTION 7. Section 704-407, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

“(3) After the hearing, the court shall rule on any legal objection raised by the application and, in an appropriate case, may quash the indictment or other charge, find it to be defective or insufficient, or otherwise terminate the proceedings on the law. ~~[In any such case, unless]~~ Unless all defects in the proceedings are promptly cured, the court shall terminate the commitment or release ordered under section 704-406 and:

- (a) Order the defendant to be discharged;
- (b) Subject to ~~[the law governing involuntary civil commitment of persons affected by a physical or mental disease, disorder, or defect,]~~ section 334-60.2 regarding involuntary hospitalization criteria, order the defendant to be committed to the custody of the director of health to be placed in an appropriate institution for detention, care, and treatment; or
- (c) Subject to ~~[the law governing involuntary outpatient treatment,]~~ section 334-121 regarding assisted community treatment criteria, order the defendant to be released on ~~[such]~~ conditions as the court deems necessary.”

SECTION 8. Section 704-411, Hawaii Revised Statutes, is amended to read as follows:

1. By amending subsection (1) to read:

“(1) When a defendant is acquitted on the ground of physical or mental disease, disorder, or defect excluding responsibility, the court, on the basis of the report made pursuant to section 704-404, if uncontested, or the medical or psychological evidence given at the trial or at a separate hearing, shall order that:

- (a) The defendant shall be committed to the custody of the director of health to be placed in an appropriate institution for custody, care, and treatment if the court finds that the defendant:
  - (i) Is affected by a physical or mental disease, disorder, or defect;
  - (ii) Presents a risk of danger to self or others; and
  - (iii) Is not a proper subject for conditional release;
 provided that the director of health shall place defendants charged with misdemeanors or felonies not involving violence or attempted violence in the least restrictive environment appropriate in light of the defendant's treatment needs and the need to prevent harm to the person confined and others. The county police departments shall provide to the director of health and the defendant copies of all police reports from cases filed against the defendant that have been adjudicated by the acceptance of a plea of guilty or nolo contendere, a finding of guilt, acquittal, acquittal pursuant to section 704-400, or by the entry of a plea of guilty or nolo contendere made pursuant to chapter 853~~[, so long as]~~; provided that the disclosure to the director of health and the defendant does not frustrate a legitimate function of the county police departments; provided further that expunged records, records of or pertaining to any adjudication or disposition rendered in the case of a juvenile, or records containing data from the United States National Crime Information Center shall not be provided. The county police departments shall segregate or sanitize from the police reports information that would result in the likelihood or actual identification of individuals who furnished information in connection with the investigation or who were of in-

vestigatory interest. Records shall not be re-disclosed except to the extent permitted by law;

- (b) The defendant shall be granted conditional release with conditions as the court deems necessary if the court finds that the defendant is affected by physical or mental disease, disorder, or defect and that the defendant presents a danger to self or others, but that the defendant can be controlled adequately and given proper care, supervision, and treatment if the defendant is released on condition[~~For any defendant granted conditional release pursuant to this paragraph, and who was charged with a petty misdemeanor, misdemeanor, or violation, the period of conditional release shall be no longer than one year~~]; or
- (c) The defendant shall be discharged if the court finds that the defendant is no longer affected by physical or mental disease, disorder, or defect or, if so affected, that the defendant no longer presents a danger to self or others and is not in need of care, supervision, or treatment."

2. By amending subsection (3) to read:

"(3) When ordering a hearing pursuant to subsection (2):

- (a) In nonfelony cases, the court shall appoint a qualified examiner to examine and report upon the physical and mental condition of the defendant. The court may appoint either a psychiatrist or a licensed psychologist. The examiner may be designated by the director of health from within the department of health. The examiner shall be appointed from a list of certified examiners as determined by the department of health. The court, in appropriate circumstances, may appoint an additional examiner or examiners; and
- (b) In felony cases, the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case, the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third member may be a psychiatrist, a licensed psychologist, or a qualified physician. One of the three shall be a psychiatrist or licensed psychologist designated by the director of health [~~from within the department of health~~]. The three examiners shall be appointed from a list of certified examiners as determined by the department of health.

To facilitate the examination and the proceedings thereon, the court may cause the defendant, if not then confined, to be committed to a hospital or other suitable facility for the purpose of examination for a period not exceeding thirty days or [~~such~~] a longer period as the court determines to be necessary for the purpose upon written findings for good cause shown. The court may direct that qualified physicians or psychologists retained by the defendant be permitted to witness the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 704-404(3), (4)(a) and (b), (6), (7), (8), and (9). As used in this section, the term "licensed psychologist" includes psychologists exempted from licensure by section 465-3(a)(3)."

SECTION 9. Section 704-411, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

"(3) When ordering a hearing pursuant to subsection (2):

- (a) In nonfelony cases, the court shall appoint a qualified examiner to examine and report upon the physical and mental condition of the defendant. The court may appoint either a psychiatrist or a licensed psychologist. The examiner may be designated by the director of health from within the department of health. The examiner shall be appointed from a list of certified examiners as determined by the department of health. The court, in appropriate circumstances, may appoint an additional examiner or examiners; and
- (b) In felony cases, the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case, the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third member may be a psychiatrist, a licensed psychologist, or a qualified physician. One of the three shall be a psychiatrist or licensed psychologist designated by the director of health[-] from within the department of health. The three examiners shall be appointed from a list of certified examiners as determined by the department of health.

To facilitate the examination and the proceedings thereon, the court may cause the defendant, if not then confined, to be committed to a hospital or other suitable facility for the purpose of examination for a period not exceeding thirty days or a longer period as the court determines to be necessary for the purpose upon written findings for good cause shown. The court may direct that qualified physicians or psychologists retained by the defendant be permitted to witness the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 704-404(3), (4)(a) and (b), (6), (7), (8), and (9). As used in this section, the term "licensed psychologist" includes psychologists exempted from licensure by section 465-3(a)(3)."

SECTION 10. Section 704-413, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

"(4) If, at any time after the order pursuant to this chapter granting conditional release, the court determines, after hearing evidence, that:

- (a) The person is still affected by a physical or mental disease, disorder, or defect, and the conditions of release have not been fulfilled; or
- (b) For the safety of the person or others, the person's conditional release should be revoked,

the court may forthwith modify the conditions of release or order the person to be committed to the custody of the director of health, subject to discharge or release in accordance with the procedure prescribed in section 704-412[-]; provided that, if satisfied that the person would benefit from temporary hospitalization that may render a revocation of conditional release unnecessary, the court, in lieu of revocation, may order hospitalization for a period not to exceed ninety days, subject to extension as appropriate, but in no event for a period exceeding a total of one year, and may reinstate or revoke conditional release at any time during the temporary hospitalization."

SECTION 11. Section 704-414, Hawaii Revised Statutes, is amended to read as follows:

**"§704-414 Procedure upon application for discharge, conditional release, or modification of conditions of release. (1)** Upon filing of an application pursu-

ant to section 704-412 for discharge or conditional release, or upon the filing of an application pursuant to section 704-413 for discharge ~~[or for modification of conditions of release]~~, the court shall appoint three qualified examiners in felony cases, and one qualified examiner in nonfelony cases, to examine and report upon the physical and mental condition of the defendant. In felony cases, the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third member may be a psychiatrist, a licensed psychologist, or a qualified physician. One of the three shall be a psychiatrist or licensed psychologist designated by the director of health ~~[from within the department of health]~~. The examiners shall be appointed from a list of certified examiners as determined by the department of health. To facilitate the examination and the proceedings thereon, the court may cause the defendant, if not then confined, to be committed to a hospital or other suitable facility for the purpose of the examination and may direct that qualified physicians or psychologists retained by the defendant be permitted to witness the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 704-404(3), (4)(a) and (b), (6), (7), (8), and (9). As used in this section, the term "licensed psychologist" includes psychologists exempted from licensure by section 465-3(a)(3).

(2) Upon the filing of an application pursuant to section 704-413 for modification of conditions of release, the court may proceed as provided in subsection (1)."

SECTION 12. Section 704-414, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) Upon filing of an application pursuant to section 704-412 for discharge or conditional release, or upon the filing of an application pursuant to section 704-413 for discharge, the court shall appoint three qualified examiners in felony cases, and one qualified examiner in nonfelony cases, to examine and report upon the physical and mental condition of the defendant. In felony cases, the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third member may be a psychiatrist, a licensed psychologist, or a qualified physician. One of the three shall be a psychiatrist or licensed psychologist designated by the director of health~~[-]~~ from within the department of health. The examiners shall be appointed from a list of certified examiners as determined by the department of health. To facilitate the examination and the proceedings thereon, the court may cause the defendant, if not then confined, to be committed to a hospital or other suitable facility for the purpose of the examination and may direct that qualified physicians or psychologists retained by the defendant be permitted to witness the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 704-404(3), (4)(a) and (b), (6), (7), (8), and (9). As used in this section, the term "licensed psychologist" includes psychologists exempted from licensure by section 465-3(a)(3)."

### PART III

SECTION 13. The purpose of this part is to amend chapter 706, Hawaii Revised Statutes, regarding disposition of convicted defendants, to:

- (1) Establish an enumerated priority schedule for payments that defendants are ordered to make following conviction;
- (2) Require defendants to pay restitution pursuant to chapter 353, Hawaii Revised Statutes, while in custody, notwithstanding any contrary law or court order;

- (3) Ensure that efforts are made to inform victims and their families of the right to be present at sentencing and to be heard, regardless of whether a pre-sentence diagnosis of the defendant is made or waived;
- (4) Repeal a provision that precludes a defendant convicted of a crime involving serious or substantial bodily injury within the previous five years from being eligible for intermediate sanctions such as drug court, veterans treatment court, and mental health court;
- (5) Repeal provisions related to a program of regimental discipline that has not been implemented;
- (6) Repeal a provision imposing a mandatory minimum prison term on repeat offenders convicted of small drug possession offenses who may be better managed with probation and drug treatment;
- (7) Authorize probation officers to request expungements on behalf of defendants; and
- (8) Provide courts with discretion to add certain conditions to probation, including a requirement that a defendant undergo mental health and substance abuse assessment, submit to a search by a probation officer, sign a waiver of extradition, and pay extradition costs.

SECTION 14. Chapter 706, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§706- Payments by defendant; order of priority.** When a defendant is ordered to make payments pursuant to chapters 351, 706, 846F, and 853, or as otherwise provided by law, payments shall be made in the following order of priority:

- (1) Restitution;
- (2) Crime victims compensation fee;
- (3) Probation services fee;
- (4) Human trafficking victim services fee;
- (5) Other fees, including but not limited to internet crimes against children fee and drug demand reduction assessment fee;
- (6) DNA analysis monetary assessment; and
- (7) Fines.”

SECTION 15. Section 706-601, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

“(3) With the consent of the court, the requirement of a pre-sentence diagnosis may be waived by agreement of both the defendant and the prosecuting attorney[-]; provided that in felony cases, the prosecuting attorney shall inform, or make reasonable efforts to inform, the victim or the victim’s surviving immediate family members of their rights to be present at the sentencing hearing and to provide information relating to the impact of the crime, including any requested restitution.”

SECTION 16. Section 706-603, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

“(4) Restitution [~~to the victim of a sexual or violent crime~~] shall be made before payment of the monetary assessment[-] pursuant to section 706- .”

SECTION 17. Section 706-604, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:



“(3) In all circuit court cases, regardless of whether a pre-sentence report has been prepared or waived, the court shall afford a fair opportunity to the victim to be heard on the issue of the defendant’s disposition, before imposing sentence. The court, service center, or agency personnel who prepare the pre-sentence diagnosis and report shall inform the victim of the sentencing date and of the victim’s opportunity to be heard. In the case of a homicide or where the victim is a minor or is otherwise unable to appear at the sentencing hearing, the victim’s family shall be afforded the fair opportunity to be heard.”

SECTION 18. Section 706-605, Hawaii Revised Statutes, is amended by amending subsection (6) to read as follows:

“(6) The court shall impose a compensation fee upon every person convicted of a criminal offense pursuant to section 351-62.6; provided that the court shall waive the imposition of a compensation fee if it finds that the defendant is unable to pay the compensation fee. When a defendant is ordered to make payments in addition to the compensation fee, payments by the defendant shall be made in the [following] order of priority[:

- (a) Restitution;
- (b) ~~Crime victim compensation fee;~~
- (c) ~~Probation services fee;~~
- (d) Other fees; and
- (e) Fines.] established in section 706-\_\_\_\_\_.”

SECTION 19. Section 706-605.1, Hawaii Revised Statutes, is amended to read as follows:

**“§706-605.1 Intermediate sanctions; eligibility; criteria and conditions.**

(1) The judiciary shall implement alternative programs that place, control, supervise, and treat selected defendants in lieu of a sentence of incarceration.

(2) Defendants may be considered for sentencing to alternative programs if they[:

- (a) ~~Have] have~~ not been convicted of a non-probationable class A felony[; and
- (b) ~~Have not, within the previous five years, been convicted of a crime involving serious bodily injury or substantial bodily injury as defined by chapter 707].~~

(3) A defendant may be sentenced by a district, family, or circuit court judge to alternative programs.

(4) As used in this section, “alternative programs” means programs that[~~, from time to time,~~] are created and funded by legislative appropriation or federal grant naming the judiciary or one of its operating agencies as the expending agency and that are intended to provide an alternative to incarceration. Alternative programs may include:

- (a) House arrest, or curfew using electronic monitoring and surveillance, or both;
- (b) Drug court programs for defendants with assessed alcohol or drug abuse problems, or both;
- (c) Therapeutic residential and nonresidential programs, including secure drug treatment facilities;
- [(d) A program of regimental discipline pursuant to section 706-605.5;] and
- [(e)] (d) Similar programs created and designated as alternative programs

by the legislature or the administrative director of the courts for qualified defendants who do not pose significant risks to the community.”

SECTION 20. Section 706-606.5, Hawaii Revised Statutes, is amended to read as follows:

**“§706-606.5 Sentencing of repeat offenders.** (1) Notwithstanding section 706-669 and any other law to the contrary, any person convicted of murder in the second degree, any class A felony, any class B felony, or any of the following class C felonies: [section]

- (a) Section 134-7 relating to persons prohibited from owning, possessing, or controlling firearms or ammunition; [section]
- (b) Section 134-8 relating to ownership, etc., of certain prohibited weapons; [section]
- (c) Section 134-17 only as it relates to providing false information or evidence to obtain a permit under section 134-9; [section]
- (d) Section 188-23 relating to possession or use of explosives, electro-fishing devices, and poisonous substances in state waters; [section]
- (e) Section 386-98(d)(1) relating to fraud violations and penalties; [section]
- (f) Section 431:2-403(b)(2) relating to insurance fraud; [section]
- (g) Section 707-703 relating to negligent homicide in the second degree; [section]
- (h) Section 707-711 relating to assault in the second degree; [section]
- (i) Section 707-713 relating to reckless endangering in the first degree; [section]
- (j) Section 707-716 relating to terroristic threatening in the first degree; [section]
- (k) Section 707-721 relating to unlawful imprisonment in the first degree; [section]
- (l) Section 707-732 relating to sexual assault in the third degree; [section]
- (m) Section 707-752 relating to promoting child abuse in the third degree; [section]
- (n) Section 707-757 relating to electronic enticement of a child in the second degree; [section]
- (o) Section 707-766 relating to extortion in the second degree; [section]
- (p) Section 708-811 relating to burglary in the second degree; [section]
- (q) Section 708-821 relating to criminal property damage in the second degree; [section]
- (r) Section 708-831 relating to theft in the second degree; [section]
- (s) Section 708-835.5 relating to theft of livestock; [section]
- (t) Section 708-836 relating to unauthorized control of propelled vehicle; [section]
- (u) Section 708-839.55 relating to unauthorized possession of confidential personal information; [section]
- (v) Section 708-839.8 relating to identity theft in the third degree; [section]
- (w) Section 708-852 relating to forgery in the second degree; [section]

- (x) Section 708-854 relating to criminal possession of a forgery device; ~~[section]~~
- (y) Section 708-875 relating to trademark counterfeiting; ~~[section]~~
- (z) Section 710-1071 relating to intimidating a witness; ~~[section]~~
- (aa) Section 711-1103 relating to riot; ~~[section]~~
- (bb) Section 712-1221 relating to promoting gambling in the first degree; ~~[section]~~
- (cc) Section 712-1224 relating to possession of gambling records in the first degree; ~~[section 712-1243 relating to promoting a dangerous drug in the third degree; section]~~
- (dd) Section 712-1247 relating to promoting a detrimental drug in the first degree; ~~[section]~~ or
- (ee) Section 846E-9 relating to failure to comply with covered offender registration requirements,

or who is convicted of attempting to commit murder in the second degree, any class A felony, any class B felony, or any of the class C felony offenses enumerated above and who has a prior conviction or prior convictions for the following felonies, including an attempt to commit the same: murder, murder in the first or second degree, a class A felony, a class B felony, any of the class C felony offenses enumerated above, or any felony conviction of another jurisdiction, shall be sentenced to a mandatory minimum period of imprisonment without possibility of parole ~~[during such period as follows:]~~ as provided in subsection (2).

(2) A mandatory minimum period of imprisonment without possibility of parole during that period shall be imposed pursuant to subsection (1), as follows:

- (a) One prior felony conviction:
  - (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—ten years;
  - (ii) Where the instant conviction is for a class A felony—six years, eight months;
  - (iii) Where the instant conviction is for a class B felony—three years, four months; and
  - (iv) Where the instant conviction is for a class C felony offense enumerated above—one year, eight months;
- (b) Two prior felony convictions:
  - (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—twenty years;
  - (ii) Where the instant conviction is for a class A felony—thirteen years, four months;
  - (iii) Where the instant conviction is for a class B felony—six years, eight months; and
  - (iv) Where the instant conviction is for a class C felony offense enumerated above—three years, four months; and
- (c) Three or more prior felony convictions:
  - (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—thirty years;
  - (ii) Where the instant conviction is for a class A felony—twenty years;
  - (iii) Where the instant conviction is for a class B felony—ten years; and
  - (iv) Where the instant conviction is for a class C felony offense enumerated above—five years.

~~[(2)]~~ (3) Except as provided in subsection ~~[(3)]~~, (4), a person shall not be sentenced to a mandatory minimum period of imprisonment under this section unless the instant felony offense was committed during ~~[such]~~ the period as follows:

- (a) Within twenty years after a prior felony conviction where the prior felony conviction was for murder in the first degree or attempted murder in the first degree;
- (b) Within twenty years after a prior felony conviction where the prior felony conviction was for murder in the second degree or attempted murder in the second degree;
- (c) Within twenty years after a prior felony conviction where the prior felony conviction was for a class A felony;
- (d) Within ten years after a prior felony conviction where the prior felony conviction was for a class B felony;
- (e) Within five years after a prior felony conviction where the prior felony conviction was for a class C felony offense enumerated above;
- (f) Within the maximum term of imprisonment possible after a prior felony conviction of another jurisdiction.

~~[(3)]~~ (4) If a person was sentenced for a prior felony conviction to a special term under section 706-667, then the person shall not be sentenced to a mandatory minimum period of imprisonment under this section unless the instant felony offense was committed during ~~[such]~~ that period as follows:

- (a) Within eight years after a prior felony conviction where the prior felony conviction was for a class A felony;
- (b) Within five years after the prior felony conviction where the prior felony conviction was for a class B felony;
- (c) Within four years after the prior felony conviction where the prior felony conviction was for a class C felony offense enumerated above.

~~[(4)]~~ (5) Notwithstanding any other law to the contrary, any person convicted of any of the following misdemeanor offenses:

- (a) Section 707-712 relating to assault in the third degree;
- (b) Section 707-717 relating to terroristic threatening in the second degree;
- (c) Section 707-733 relating to sexual assault in the fourth degree;
- (d) Section 708-822 relating to criminal property damage in the third degree;
- (e) Section 708-832 relating to theft in the third degree; and
- (f) Section 708-833.5(2) relating to misdemeanor shoplifting,

and who has been convicted of any of the offenses enumerated above on at least three prior and separate occasions within three years of the date of the commission of the present offense, shall be sentenced to no less than nine months of imprisonment. Whenever a court sentences a defendant under this subsection for an offense under section 707-733, the court shall order the defendant to participate in a sex offender assessment and, if recommended based on the assessment, participate in the sex offender treatment program established by chapter 353E.

~~[(5)]~~ (6) The sentencing court may impose the above sentences consecutive to any sentence imposed on the defendant for a prior conviction, but ~~[such]~~ the sentence shall be imposed concurrent to the sentence imposed for the instant conviction. The court may impose a lesser mandatory minimum period of imprisonment without possibility of parole than that mandated by this section where the court finds that strong mitigating circumstances warrant ~~[such]~~ the

action. Strong mitigating circumstances shall include, but shall not be limited to the provisions of section 706-621. The court shall provide a written opinion stating its reasons for imposing the lesser sentence.

~~[(6)]~~ (7) A person who is imprisoned in a correctional institution pursuant to subsection (1) shall not be paroled prior to the expiration of the mandatory minimum term of imprisonment imposed pursuant to subsection (1).

~~[(7)]~~ (8) For purposes of this section:

- (a) Convictions under two or more counts of an indictment or complaint shall be considered a single conviction without regard to when the convictions occur;
- (b) A prior conviction in this or another jurisdiction shall be deemed a felony conviction if it was punishable by a sentence of death or of imprisonment in excess of one year; and
- (c) A conviction occurs on the date judgment is entered."

SECTION 21. Section 706-622.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (1) to read:

"(1) Notwithstanding section 706-620(3), a person convicted for the first or second time for any offense under section 329-43.5 involving the possession or use of drug paraphernalia or any felony offense under part IV of chapter 712 involving the possession or use of any dangerous drug, detrimental drug, harmful drug, intoxicating compound, marijuana, or marijuana concentrate, as defined in section 712-1240, but not including any offense under part IV of chapter 712 involving the distribution or manufacture of any such drugs or substances and not including any methamphetamine ~~[trafficking]~~ offenses under sections 712-1240.7 ~~[and]~~, 712-1240.8~~;~~ as that section was in effect prior to July 1, 2016, 712-1241, and 712-1242, is eligible to be sentenced to probation under subsection (2) if the person meets the following criteria:

- (a) The court has determined that the person is nonviolent after reviewing the person's criminal history, the factual circumstances of the offense for which the person is being sentenced, and any other relevant information;
- (b) The person has been assessed by a certified substance abuse counselor to be in need of substance abuse treatment due to dependency or abuse under the applicable Diagnostic and Statistical Manual and Addiction Severity Index; and
- (c) Except for those persons directed to substance abuse treatment under the supervision of the drug court, the person presents a proposal to receive substance abuse treatment in accordance with the treatment plan prepared by a certified substance abuse counselor through a substance abuse treatment program that includes an identified source of payment for the treatment program."

2. By amending subsection (4) to read:

"(4) ~~[The court, upon]~~ Upon written application from a person sentenced under this part~~;~~ or a probation officer, the court shall issue a court order to expunge the record of conviction for that particular offense; provided that a person has successfully completed the substance abuse treatment program and complied with other terms and conditions of probation. A person sentenced to probation under this section who has not previously been sentenced under this section shall be eligible for one time only for expungement under this subsection."

SECTION 22. Section 706-622.9, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

"(3) ~~[The court, upon]~~ Upon written application from a person sentenced under this part~~;~~ or a probation officer, the court shall issue a court order to expunge the record of conviction for that particular offense; provided that a person has successfully completed the substance abuse treatment program and complied with other terms and conditions of probation. A person sentenced to probation under this section shall be eligible for expungement under this subsection only if the person has not been previously convicted of a felony offense in this or another jurisdiction."

SECTION 23. Section 706-624, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Discretionary conditions. The court may provide, as further conditions of a sentence of probation, to the extent that the conditions are reasonably related to the factors set forth in section 706-606 and to the extent that the conditions involve only deprivations of liberty or property as are reasonably necessary for the purposes indicated in section 706-606(2), that the defendant:

- (a) Serve a term of imprisonment to be determined by the court at sentencing in class A felony cases under section 707-702, not exceeding two years in class A felony cases under part IV of chapter 712, not exceeding eighteen months in class B felony cases, not exceeding one year in class C felony cases, not exceeding six months in misdemeanor cases, and not exceeding five days in petty misdemeanor cases; provided that notwithstanding any other provision of law, any order of imprisonment under this subsection that provides for prison work release shall require the defendant to pay thirty per cent of the defendant's gross pay earned during the prison work release period to satisfy any restitution order. The payment shall be handled by the adult probation division and shall be paid to the victim on a monthly basis;
- (b) Perform a specified number of hours of services to the community as described in section 706-605(1)(d);
- (c) Support the defendant's dependents and meet other family responsibilities;
- (d) Pay a fine imposed pursuant to section 706-605(1)(b);
- (e) Work conscientiously at suitable employment or pursue conscientiously a course of study or vocational training that will equip the defendant for suitable employment;
- (f) Refrain from engaging in a specified occupation, business, or profession bearing a reasonably direct relationship to the conduct constituting the crime or engage in the specified occupation, business, or profession only to a stated degree or under stated circumstances;
- (g) Refrain from frequenting specified kinds of places or from associating unnecessarily with specified persons, including the victim of the crime, any witnesses, regardless of whether they actually testified in the prosecution, law enforcement officers, co-defendants, or other individuals with whom contact may adversely affect the rehabilitation or reformation of the person convicted;
- (h) Refrain from use of alcohol or any use of narcotic drugs or controlled substances without a prescription;

- (i) Refrain from possessing a firearm, ammunition, destructive device, or other dangerous weapon;
- (j) Undergo available medical or mental health assessment and treatment, including assessment and treatment for substance abuse dependency, and remain in a specified facility if required for that purpose;
- (k) Reside in a specified place or area or refrain from residing in a specified place or area;
- (l) Submit to periodic urinalysis or other similar testing procedure;
- (m) Refrain from entering specified geographical areas without the court's permission;
- (n) Refrain from leaving the person's dwelling place except to go to and from the person's place of employment, the office of the person's physician or dentist, the probation office, or any other location as may be approved by the person's probation officer pursuant to court order. As used in this paragraph, "dwelling place" includes the person's yard or, in the case of condominiums, the common elements;
- (o) Comply with a specified curfew;
- (p) Submit to monitoring by an electronic monitoring device; [ø]
- (q) Submit to a search by any probation officer, with or without a warrant, of the defendant's person, residence, vehicle, or other sites or property under the defendant's control, based upon the probation officer's reasonable suspicion that illicit substances or contraband may be found on the person or in the place to be searched;
- (r) Sign a waiver of extradition and pay extradition costs as determined and ordered by the court;
- (s) Comply with a service plan developed using current assessment tools; and
- [ø] (t) Satisfy other reasonable conditions as the court may impose."

SECTION 24. Section 706-642, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

"(3) When a defendant sentenced to pay a fine is also ordered to make restitution or reparation to the victim or victims, or to the person or party who has incurred loss or damage because of the defendant's crime, the payment of restitution or reparation shall have priority over the payment of the fine[.], pursuant to section 706- . No fine shall be collected until the restitution or reparation order has been satisfied."

SECTION 25. Section 706-646, Hawaii Revised Statutes, is amended by amending subsections (2) and (3) to read as follows:

"(2) The court shall order the defendant to make restitution for reasonable and verified losses suffered by the victim or victims as a result of the defendant's offense when requested by the victim. The court shall order restitution to be paid to the crime victim compensation commission ~~[in the event that]~~ if the victim has been given an award for compensation under chapter 351. If the court orders payment of a fine in addition to restitution or a compensation fee, or both, the payment of restitution and compensation fee shall ~~[have priority over the payment of the fine, and payment of restitution shall have priority over payment of a compensation fee.]~~ be made pursuant to section 706- .

(3) In ordering restitution, the court shall not consider the defendant's financial ability to make restitution in determining the amount of restitution to order. The court, however, shall consider the defendant's financial ability to make restitution for the purpose of establishing the time and manner of payment. The court shall specify the time and manner in which restitution is to be paid. While the defendant is in the custody of the department of public safety, restitution shall be collected pursuant to chapter 353 and any court-ordered payment schedule shall be suspended. Restitution shall be a dollar amount that is sufficient to reimburse any victim fully for losses, including but not limited to:

- (a) Full value of stolen or damaged property, as determined by replacement costs of like property, or the actual or estimated cost of repair, if repair is possible;
- (b) Medical expenses; and
- (c) Funeral and burial expenses incurred as a result of the crime."

SECTION 26. Section 706-648, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) The entire fee ordered or assessed shall be payable forthwith by cash, check, or by a credit card approved by the court. When a defendant is also ordered to pay a fine, make restitution, pay a crime victim compensation fee, or pay other fees in addition to the probation services fee under subsection (1), payments by the defendant shall be made ~~[in the following order of priority:~~

- (a) ~~Restitution;~~
- (b) ~~Crime-victim-compensation fee;~~
- (c) ~~Probation-services fee;~~
- (d) ~~Other fees; and~~
- (e) ~~Fines.] pursuant to section 706- ."~~

SECTION 27. Section 706-650, Hawaii Revised Statutes, is amended to read as follows:

**~~[[§706-650]]~~ Drug demand reduction assessments; special fund.** (1) In addition to any disposition authorized by chapter 706 or 853, any person who is:

- (a) Convicted of an offense under part IV of chapter 712, except sections 712-1250.5 and 712-1257;
- (b) Convicted under section 707-702.5;
- (c) Convicted of a felony or misdemeanor offense under part IV of chapter 329;
- (d) Convicted under section 291-3.1, 291-3.2, 291-3.3, 291E-61, or 291E-61.5;
- (e) Found in violation of part III of chapter 291E; or
- (f) Charged with any offense under paragraphs (a) to (d) who has been granted a deferred acceptance of guilty or no contest plea;

shall be ordered to pay a monetary assessment under subsection (2), except as provided under subsection ~~[(6)-]~~ (5).

(2) Monetary assessments for individuals subject to subsection (1) shall not exceed the following:

- (a) \$3,000 when the offense is a class A felony;
- (b) \$2,000 when the offense is a class B felony;
- (c) \$1,000 when the offense is a class C felony;
- (d) \$500 when the offense is a misdemeanor; or
- (e) \$250 when the person has been found guilty of an offense under sec-



tion 712-1249, 291-3.1, 291-3.2, 291-3.3, 291E-61, or has been found in violation of part III of chapter 291E.

Notwithstanding sections 706-640 and 706-641 and any other law to the contrary, the assessments provided by this section shall be in addition to and not in lieu of, and shall not be used to offset or reduce, any fine authorized or required by law~~[-] and shall be paid pursuant to section 706- .~~

(3) There is established a special fund to be known as the "drug demand reduction assessments special fund" to be administered by the department of health. The disbursement of money from the drug demand reduction assessments special fund shall be used to supplement substance abuse treatment and other substance abuse demand reduction programs.

(4) All monetary assessments paid and interest accrued on funds collected pursuant to this section shall be deposited into the drug demand reduction assessments special fund.

~~[(5) Restitution to the victim of a crime enumerated in subsection (1) shall be made, and probation fees and crime victim compensation fees imposed under part III of chapter 706 shall be paid, before payment of the monetary assessment.~~

~~[(6)]~~ (5) If the court determines that the person has the ability to pay the monetary assessment and is eligible for probation or will not be sentenced to incarceration, unless otherwise required by law, the court may order the person to undergo a substance abuse treatment program at the person's expense. If the person undergoes a substance abuse treatment program at the person's expense, the court may waive or reduce the amount of the monetary assessment. Upon a showing by the person that the person lacks the financial ability to pay all or part of the monetary assessment, the court may waive or reduce the amount of the monetary assessment."

SECTION 28. Section 706-650.5, Hawaii Revised Statutes, is amended by amending subsection (5) to read as follows:

"(5) When a defendant is ordered to make payments in addition to the human trafficking victim services fee authorized under subsection (2), payments by the defendant shall be made ~~[in the following order of priority:~~

- ~~(a) Restitution imposed under section 706-646, 707-785, or 707-786;~~
- ~~(b) Crime victim compensation fee imposed under section 351-62.6;~~
- ~~(c) Probation services fee imposed under section 706-648;~~
- ~~(d) Human trafficking victim services fee imposed under subsection (2);~~
- ~~(e) Other fees; and~~
- ~~(f) Fines.] pursuant to section 706- ."~~

SECTION 29. Section 706-660, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) A person who has been convicted of a class B or class C felony for any offense under part IV of chapter 712 may be sentenced to an indeterminate term of imprisonment; provided that this subsection shall not apply to sentences imposed under sections 706-606.5, 706-660.1, 712-1240.5, 712-1240.8~~[-]~~ as that section was in effect prior to July 1, 2016, 712-1242, 712-1245, 712-1249.5, 712-1249.6, 712-1249.7, and 712-1257.

When ordering a sentence under this subsection, the court shall impose a term of imprisonment, which shall be as follows:

- (a) For a class B felony—ten years or less, but not less than five years; and
- (b) For a class C felony—five years or less, but not less than one year.

The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669."

SECTION 30. Section 706-605.5, Hawaii Revised Statutes, is repealed.

#### PART IV

SECTION 31. The purpose of this part is to amend chapter 707, Hawaii Revised Statutes, regarding offenses against the person, to:

- (1) Amend the definition of "sexual contact" to repeal language that:
  - (A) Exempts married couples from certain sexual assault offenses; and
  - (B) Has the effect of requiring the prosecution to allege and prove that a victim who was a minor under the age of fourteen was not married to the offender, even though a minor of that age cannot legally marry in any event;
- (2) Amend the definition of sexual assault in the fourth degree to maintain an exception for married couples because of the relatively low threshold for culpability in that offense; and
- (3) Align the organization of the mental state requirements for assault in the second degree with that of assault in the third degree.

SECTION 32. Section 707-700, Hawaii Revised Statutes, is amended by amending the definition of "sexual contact" to read as follows:

"Sexual contact" means any touching, other than acts of "sexual penetration", of the sexual or other intimate parts of ~~[a person not married to the actor,] another~~, or of the sexual or other intimate parts of the actor by ~~[the person,] another~~, whether directly or through the clothing or other material intended to cover the sexual or other intimate parts."

SECTION 33. Section 707-711, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

- (1) A person commits the offense of assault in the second degree if:
  - (a) The person intentionally ~~[or]~~, knowingly, or recklessly causes substantial bodily injury to another;
  - (b) The person recklessly causes serious ~~[or substantial]~~ bodily injury to another;
  - (c) The person intentionally or knowingly causes bodily injury to a correctional worker, as defined in section 710-1031(2), who is engaged in the performance of duty or who is within a correctional facility;
  - (d) The person intentionally or knowingly causes bodily injury to another with a dangerous instrument;
  - (e) The person intentionally or knowingly causes bodily injury to an educational worker who is engaged in the performance of duty or who is within an educational facility. For the purposes of this paragraph, "educational worker" means any administrator, specialist, counselor, teacher, or employee of the department of education or an employee of a charter school; a person who is a volunteer, as defined in section 90-1, in a school program, activity, or function that is established, sanctioned, or approved by the department of education; or a person hired by the department of education on a contractual basis and engaged in carrying out an educational function;

- (f) The person intentionally or knowingly causes bodily injury to any emergency medical services provider who is engaged in the performance of duty. For the purposes of this paragraph, "emergency medical services provider" means emergency medical services personnel, as defined in section 321-222, and physicians, physician's assistants, nurses, nurse practitioners, certified registered nurse anesthetists, respiratory therapists, laboratory technicians, radiology technicians, and social workers, providing services in the emergency room of a hospital;
- (g) The person intentionally or knowingly causes bodily injury to a person employed at a state-operated or -contracted mental health facility. For the purposes of this paragraph, "a person employed at a state-operated or -contracted mental health facility" includes health care professionals as defined in section 451D-2, administrators, orderlies, security personnel, volunteers, and any other person who is engaged in the performance of a duty at a state-operated or -contracted mental health facility;
- (h) The person intentionally or knowingly causes bodily injury to a person who:
  - (i) The defendant has been restrained from, by order of any court, including an ex parte order, contacting, threatening, or physically abusing pursuant to chapter 586; or
  - (ii) Is being protected by a police officer ordering the defendant to leave the premises of that protected person pursuant to section 709-906(4), during the effective period of that order; or
- [(i)] The person intentionally or knowingly causes bodily injury to any firefighter or water safety officer who is engaged in the performance of duty. For the purposes of this paragraph, "firefighter" has the same meaning as in section 710-1012 and "water safety officer" means any public servant employed by the United States, the State, or any county as a lifeguard or person authorized to conduct water rescue or ocean safety functions."

SECTION 34. Section 707-733, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of sexual assault in the fourth degree if:

- (a) The person knowingly subjects another person, not married to the actor, to sexual contact by compulsion or causes another person, not married to the actor, to have sexual contact with the actor by compulsion;
- (b) The person knowingly exposes the person's genitals to another person under circumstances in which the actor's conduct is likely to alarm the other person or put the other person in fear of bodily injury; or
- (c) The person knowingly trespasses on property for the purpose of subjecting another person to surreptitious surveillance for the sexual gratification of the actor."

## PART V

SECTION 35. The legislature finds that Act 49, Session Laws of Hawaii 2004, established the offense of habitual property crime, a class C felony, in section 708-803, Hawaii Revised Statutes. The legislature found that, in 2002, Hawaii ranked first in the nation for property crime rates and second in larceny theft rates, and that a large portion of the crimes are committed by habitual offenders. The legislature also found that Act 49 would punish repeat property crime offenders by making what would otherwise be a misdemeanor offense a class C felony.

The legislature also finds that the Federal Bureau of Investigation reported in 2012 that Hawaii ranked thirty-first out of fifty-two jurisdictions regarding the rate of property crimes per one hundred thousand inhabitants. Act 118, Session Laws<sup>1</sup> 2014, amended section 708-803(4), Hawaii Revised Statutes, by clarifying that the sentence for a person convicted of habitual property crime will be: (1) an indeterminate term of imprisonment of five years, with a minimum term of one year; or (2) for a first conviction only, a term of probation of five years, with conditions to include but not be limited to one year of imprisonment.

The legislature further finds that the dollar amount that makes a theft offense a felony ranges among the states from \$200 in New Jersey and Virginia to \$2,500 in Wisconsin. The State's felony theft threshold is the fifth lowest among fifty-one jurisdictions, putting Hawaii in the bottom ten per cent. Thirty-one of those jurisdictions have felony theft thresholds of \$1,000 or more. Twenty-six states have increased the felony theft threshold since 2005. Hawaii's threshold is \$300 and was last raised in 1986, from \$200. The impetus to increase felony theft thresholds often is the anticipated reductions to prison populations and associated expenses.

The legislature further finds that the most frequently cited rationale for the increase in the felony theft threshold is inflation, as measured by the United States Department of Labor's Consumer Price Index, and concerns about fundamental fairness when dollar values have not been adjusted in years, even decades, despite inflation. Other factors considered include the felony theft thresholds of adjacent states and the impact that increasing thresholds could have on frequent victims of property crimes, including retail businesses.

The purpose of this part is to improve property crime enforcement by making more repeat offenders of crimes prohibited by this chapter subject to punishment for a class C felony when they commit another subject offense. This Act also balances the need to target professional theft and other property rights offenders with the need to update the State's felony theft threshold. More specifically, this part amends chapter 708, Hawaii Revised Statutes, regarding offenses against property rights by:

- (1) Including more repeat theft and other property rights offenders within the definition of "habitual property crime perpetrator" and holding them accountable for more of their prior convictions, by increasing the look-back period for prior convictions from five years to ten years, by reducing by one offense the number of prior convictions needed to qualify as habitual, by allowing three petty misdemeanors to qualify as habitual, and by eliminating the requirement that convictions have occurred on separate dates;
- (2) Declaring that the state of mind required to commit the offense of habitual property crime does not apply to the offender's status as a habitual property crime perpetrator because the offender's culpability arises from the offender's status, not from the offender's state of mind with regard to that status;

- (3) Increasing the dollar amount that makes an offense a felony for the offenses of theft in the second degree, theft in the third degree, shoplifting, and theft of utility services, to partially reflect the effect of inflation since the felony theft threshold was last raised; and
- (4) Repealing a provision that subjects a person to a separate charge and enhanced penalty for using a computer to commit an underlying theft crime because it seems unduly harsh, given the prevalence of "smart phones" and other computing devices.

SECTION 36. Section 708-803, Hawaii Revised Statutes, is amended to read as follows:

**"§708-803 Habitual property crime.** (1) A person commits the offense of habitual property crime if the person is a habitual property crime perpetrator and commits a ~~[misdemeanor offense within this chapter.]~~ property crime.

(2) For the purposes of this section, "habitual property crime perpetrator" means a person who, within ~~[five]~~ ten years of the instant offense, has convictions for~~[.]~~ offenses within this chapter for:

- (a) ~~[Three felonies within this chapter;]~~ Any combination of two felonies or misdemeanors; or
- (b) ~~[Three misdemeanors within this chapter; or~~
- (e) ~~Any combination of three felonies and misdemeanors within this chapter.]~~ Any combination of either one felony or one misdemeanor and one petty misdemeanor; or
- (c) Three petty misdemeanors.

The convictions ~~[must have occurred on separate dates and]~~ shall be for separate incidents on separate dates. The prosecution is not required to prove any state of mind with respect to the person's status as a habitual property crime perpetrator. Proof that the person has the requisite minimum prior convictions shall be sufficient to establish this element.

(3) A person commits a property crime if the person engages in conduct that constitutes an offense under this chapter. It can be established that the person has committed a property crime by either the prosecution proving that the person is guilty of or by the person pleading guilty or no contest to committing any offense under this chapter.

~~[(3)]~~ (4) Habitual property crime is a class C felony.

~~[(4)]~~ (5) For a conviction under this section, the sentence shall be either:

- (a) An indeterminate term of imprisonment of five years; provided that the minimum term of imprisonment shall be not less than one year; or
- (b) A term of probation of five years, with conditions to include but not be limited to one year of imprisonment; provided that probation shall only be available for a first conviction under this section."

SECTION 37. Section 708-831, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of theft in the second degree if the person commits theft:

- (a) Of property from the person of another;
- (b) Of property or services the value of which exceeds ~~[\$300;]~~ \$750;
- (c) Of an aquacultural product or part thereof from premises that are fenced or enclosed in a manner designed to exclude intruders or

there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: "Private Property", "No Trespassing", or a substantially similar message;

- (d) Of agricultural equipment, supplies, or products, or part thereof, the value of which exceeds \$100 but does not exceed \$20,000, or of agricultural products that exceed twenty-five pounds, from premises that are fenced, enclosed, or secured in a manner designed to exclude intruders or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: "Private Property", "No Trespassing", or a substantially similar message; or if at the point of entry of the premise, a crop is visible. The sign or signs, containing letters not less than two inches in height, shall be placed along the boundary line of the land in a manner and in such a position as to be clearly noticeable from outside the boundary line. Possession of agricultural products without ownership and movement certificates, when a certificate is required pursuant to chapter 145, is prima facie evidence that the products are or have been stolen; or
- (e) Of agricultural commodities that are generally known to be marketed for commercial purposes. Possession of agricultural commodities without ownership and movement certificates, when a certificate is required pursuant to section 145-22, is prima facie evidence that the products are or have been stolen; provided that "agriculture commodities" has the same meaning as in section 145-21."

SECTION 38. Section 708-832, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of theft in the third degree if the person commits theft:

- (a) Of property or services the value of which exceeds [~~\$100;~~] \$250; or
- (b) Of gasoline, diesel fuel, or other related petroleum products used as propellants of any value not exceeding [~~\$300;~~] \$750."

SECTION 39. Section 708-833, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of theft in the fourth degree if the person commits theft of property or services of any value not in excess of [~~\$100;~~] \$250."

SECTION 40. Section 708-833.5, Hawaii Revised Statutes, is amended to read as follows:

**"§708-833.5 Shoplifting.** A person convicted of committing [~~the offense~~] theft by means of shoplifting as defined in section 708-830 shall be sentenced [~~as follows:~~] to the following minimum fines:

- (1) In cases involving [~~property the value or aggregate value of which exceeds \$300; as~~] a class C felony, [~~provided that~~] the minimum fine shall be four times the value or aggregate value of the property involved;
- (2) In cases involving [~~property the value or aggregate value of which exceeds \$100; as~~] a misdemeanor, [~~provided that~~] the minimum fine

shall be three times the value or aggregate value of the property involved;

- (3) In cases involving ~~[property the value or aggregate value of which is \$100 or less; as]~~ a petty misdemeanor, ~~[provided that]~~ the minimum fine shall be twice the value or aggregate value of the property involved;
- (4) If a person has previously been convicted of committing ~~[the offense]~~ theft by means of shoplifting as defined in section 708-830, the minimum fine shall be doubled that specified in paragraphs (1), (2), and (3), respectively, as set forth above; provided in the event the convicted person defaults in payment of any fine, and the default was not contumacious, the court may sentence the person to community services as authorized by section ~~[[706-605(1)(d)]]~~.

SECTION 41. Section 708-839.5, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

"(4) A person commits the offense of theft of utility services in the first degree in cases where the theft:

- (a) Accrues to the benefit of any commercial trade or business, including any commercial trade or business operating in a residence, home, or dwelling;
- (b) Is obtained through the services of a person hired to commit the theft of utility services; in which event, both the person hired and the person responsible for the hiring shall be punished under this section as a class C felony; or
- (c) Accrues to the benefit of a residence, home, or dwelling where the value of the theft of utility services exceeds ~~[\$300-]~~ \$750.

Theft of utility services in the first degree is a class C felony, and shall be sentenced in accordance with chapter 706, except that for a first offense the court shall impose a minimum sentence of a fine of at least \$1,000 or two times the value of the theft, whichever is greater."

SECTION 42. Section 708-893, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of use of a computer in the commission of a separate crime if the person:

- (a) ~~Intentionally uses a computer to obtain control over the property of the victim to commit theft in the first or second degree; or~~
- (b) ~~Knowingly]~~ knowingly uses a computer to identify, select, solicit, persuade, coerce, entice, induce, procure, pursue, surveil, contact, harass, annoy, or alarm the victim or intended victim of the following offenses:
  - ~~[(i)]~~ (a) Section 707-726, relating to custodial interference in the first degree;
  - ~~[(ii)]~~ (b) Section 707-727, relating to custodial interference in the second degree;
  - ~~[(iii)]~~ (c) Section 707-731, relating to sexual assault in the second degree;
  - ~~[(iv)]~~ (d) Section 707-732, relating to sexual assault in the third degree;
  - ~~[(v)]~~ (e) Section 707-733, relating to sexual assault in the fourth degree;
  - ~~[(vi)]~~ (f) Section 707-751, relating to promoting child abuse in the second degree;
  - ~~[(vii)]~~ (g) Section 711-1106, relating to harassment;
  - ~~[(viii)]~~ (h) Section 711-1106.5, relating to harassment by stalking; or

~~[(ix)]~~ (i) Section 712-1215, relating to promoting pornography for minors.”

## PART VI

SECTION 43. The purpose of this part is to amend chapter 709, Hawaii Revised Statutes, regarding offenses against the family and against incompetents, to:

- (1) Clarify that, regarding the offense of abuse of family or household members, “family or household members” do not include adult roommates or cohabitants who are, or were, only in an economic or contractual affiliation;
- (2) Distinguish between perpetrators who are younger or older than eighteen with regard to ordering a period of separation following an apparent act of physical abuse;
- (3) Clarify that abuse in the presence of a household member who is less than fourteen years of age applies to abuse that occurs in the presence of that member for purposes of charging the abuser; and
- (4) Provide for moving the prohibition against furnishing tobacco and electronic smoking devices to minors to chapter 712, Hawaii Revised Statutes, regarding offenses against public health and morals, where it more logically would be found, by repealing the prohibition from chapter 709, Hawaii Revised Statutes, regarding offenses against family and against incompetents.

SECTION 44. Section 709-906, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (1) to read:

“(1) It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member or to refuse compliance with the lawful order of a police officer under subsection (4). The police, in investigating any complaint of abuse of a family or household member, upon request, may transport the abused person to a hospital or safe shelter.

For the purposes of this section:

“Business day” means any calendar day, except Saturday, Sunday, or any state holiday.

“Family or household member” ~~means~~:

- (a) Means spouses or reciprocal beneficiaries, former spouses or reciprocal beneficiaries, persons in a dating relationship as defined under section 586-1, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit~~[-]; and~~
- (b) Does not include those who are, or were, adult roommates or cohabitants only by virtue of an economic or contractual affiliation.”

2. By amending subsection (4) to read:

“(4) Any police officer, with or without a warrant, shall take the following course of action, regardless of whether the physical abuse or harm occurred in the officer’s presence:

- (a) The police officer shall make reasonable inquiry of the family or household member upon whom the officer believes physical abuse or harm has been inflicted and other witnesses as there may be;
- (b) ~~[The police officer lawfully shall order the person]~~ If the person who the police officer reasonably believes to have inflicted the abuse is eighteen years of age or older, the police officer lawfully shall order



the person to leave the premises for a period of separation, during which time the person shall not initiate any contact, either by telephone or in person, with the family or household member; provided that the person is allowed to enter the premises with police escort to collect any necessary personal effects. The period of separation shall commence when the order is issued and shall expire at 6:00 p.m. on the second business day following the day the order was issued; provided that the day the order is issued shall not be included in the computation of the two business days;

- (c) If the person who the police officer reasonably believes to have inflicted the abuse is under the age of eighteen, the police officer may order the person to leave the premises for a period of separation, during which time the person shall not initiate any contact with the family or household member by telephone or in person; provided that the person is allowed to enter the premises with police escort to collect any necessary personal effects. The period of separation shall commence when the order is issued and shall expire at 6:00 p.m. on the second business day following the day the order was issued; provided that the day the order is issued shall not be included in the computation of the two business days. The order of separation may be amended at any time by a judge of the family court. In determining whether to order a person under the age of eighteen to leave the premises, the police officer may consider the following factors:

- (i) Age of the person;
- (ii) Relationship between the person and the family or household member upon whom the police officer reasonably believes the abuse has been inflicted; and
- (iii) Ability and willingness of the parent, guardian, or other authorized adult to maintain custody and control over the person;

- [(e)] (d) All persons who are ordered to leave as stated above shall be given a written warning citation stating the date, time, and location of the warning and stating the penalties for violating the warning. A copy of the warning citation shall be retained by the police officer and attached to a written report which shall be submitted in all cases. A third copy of the warning citation shall be given to the abused person;

- [(d)] (e) If the person so ordered refuses to comply with the order to leave the premises or returns to the premises before the expiration of the period of separation, or if the person so ordered initiates any contact with the abused person, the person shall be placed under arrest for the purpose of preventing further physical abuse or harm to the family or household member; and

- [(e)] (f) The police officer shall seize all firearms and ammunition that the police officer has reasonable grounds to believe were used or threatened to be used in the commission of an offense under this section."

3. By amending subsection (9) to read:

"(9) Where physical abuse occurs in the presence of [any] a minor, as defined in section 706-606.4, and the minor is a family or household member [who is] less than fourteen years of age, abuse of a family or household member is a class C felony."

SECTION 45. Section 709-908, Hawaii Revised Statutes, is repealed.

## PART VII

SECTION 46. The purpose of this part is to amend chapter 710, Hawaii Revised Statutes, regarding offenses against public administration, to:

- (1) Establish the felony offense of resisting an order to stop a motor vehicle in the first degree, applicable when a person both flees from a police officer and does so by driving recklessly or at high speed; and
- (2) Make the existing misdemeanor offense of resisting an order to stop a motor vehicle a second degree offense involving flight from a police officer without reckless or high speed driving.

SECTION 47. Chapter 710, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§710- Resisting an order to stop a motor vehicle in the first degree. (1)**

A person commits the offense of resisting an order to stop a motor vehicle in the first degree if the person:

- (a) Intentionally fails to obey a direction of a law enforcement officer, acting under color of the law enforcement officer's official authority, to stop the person's motor vehicle; and
- (b) While intentionally fleeing from or attempting to elude a law enforcement officer:
  - (i) Operates the person's motor vehicle in reckless disregard of the safety of other persons; or
  - (ii) Operates the person's motor vehicle in reckless disregard of the risk that the speed of the person's vehicle exceeds:
    - (A) The applicable state or county speed limit by thirty miles per hour or more; or
    - (B) Eighty miles per hour or more, irrespective of the applicable state or county speed limit.

For purposes of this section, “the applicable state or county speed limit” shall have the same meaning as in section 291C-105.

(2) Resisting an order to stop a motor vehicle in the first degree is a class C felony.”

SECTION 48. Section 710-1027, Hawaii Revised Statutes, is amended to read as follows:

**“§710-1027 Resisting an order to stop a motor vehicle[-] in the second degree.**

(1) A person commits the offense of resisting an order to stop a motor vehicle in the second degree if the person intentionally fails to obey a direction of a law enforcement officer, acting under color of the law enforcement officer's official authority, to stop the person's vehicle.

(2) Resisting an order to stop a motor vehicle in the second degree is a misdemeanor.”

## PART VIII

SECTION 49. The purpose of this part is to amend chapter 712, Hawaii Revised Statutes, regarding offenses against public health and morals, to:

- (1) Move to this chapter the prohibition against furnishing tobacco and electronic smoking devices to minors that currently is found in

chapter 709, Hawaii Revised Statutes, because the offense is more akin to offenses against public health and morals in this chapter than those against the family and against incompetents in chapter 709, Hawaii Revised Statutes;

- (2) Clarify that a person commits the offense of prostitution under section 712-1200(1)(a), Hawaii Revised Statutes, when the person engages in, or agrees or offers to engage in, sexual conduct "in return" for a fee, distinguishing the offense from the offense under section 712-1200(1)(b), Hawaii Revised Statutes, in which the other person pays the fee; and
- (3) Limit the offense of methamphetamine trafficking to instances of manufacturing the drug or distributing it to minors, which merit mandatory prison terms, so that common methamphetamine offenses involving distribution or possession of small amounts may be prosecuted as promotion of dangerous drugs, which gives the sentencing court the discretion to impose probation and drug treatment when appropriate to manage these offenders.

SECTION 50. Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§712- Tobacco products and electronic smoking devices; persons under twenty-one years of age.** (1) It shall be unlawful to sell or furnish a tobacco product in any shape or form or an electronic smoking device to a person under twenty-one years of age.

(2) Signs using the statement, "The sale of tobacco products or electronic smoking devices to persons under twenty-one is prohibited", shall be posted on or near any vending machine in letters at least one-half inch high and at or near the point of sale of any other location where tobacco products or electronic smoking devices are sold in letters at least one-half inch high.

(3) It shall be unlawful for a person under twenty-one years of age to purchase any tobacco product or electronic smoking device, as those terms are defined in subsection (5). This provision does not apply if a person under the age of twenty-one, with parental authorization, is participating in a controlled purchase as part of a law enforcement activity or a study authorized by the department of health under the supervision of law enforcement to determine the level of incidence of tobacco or electronic smoking devices sales to persons under twenty-one years of age.

(4) Any person who violates subsection (1) or (2), or both, shall be fined \$500 for the first offense. Any subsequent offenses shall subject the person to a fine not less than \$500 nor more than \$2,000. Any person under twenty-one years of age who violates subsection (3) shall be fined \$10 for the first offense. Any subsequent offense shall subject the violator to a fine of \$50, no part of which shall be suspended, or the person shall be required to perform not less than forty-eight hours nor more than seventy-two hours of community service during hours when the person is not employed and is not attending school.

(5) For the purposes of this section:

"Electronic smoking device" means any electronic product that can be used to aerosolize and deliver nicotine or other substances to the person inhaling from the device, including but not limited to an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe, and any cartridge or other component of the device or related product.

"Tobacco product" means any product made or derived from tobacco that contains nicotine or other substances and is intended for human consump-

tion or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by other means. "Tobacco product" includes but is not limited to a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, snus, or an electronic smoking device. "Tobacco product" does not include drugs, devices, or combination products approved for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act."

SECTION 51. Section 712-1200, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

- "(1) A person commits the offense of prostitution if the person:
- (a) Engages in, or agrees or offers to engage in, sexual conduct with another person in return for a fee; or
  - (b) Pays, agrees to pay, or offers to pay a fee to another to engage in sexual conduct."

SECTION 52. Section 712-1240.7, Hawaii Revised Statutes, is amended to read as follows:

**"[§712-1240.7] Methamphetamine trafficking [in the first degree].** (1) A person commits the offense of methamphetamine trafficking ~~[in the first degree]~~ if the person knowingly:

- ~~[(a) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more containing methamphetamine or any of its salts, isomers, and salts of isomers;~~
- ~~[(b) Distributes one or more preparations, compounds, mixtures, or substances of an aggregate weight of one-eighth ounce or more containing methamphetamine or any of its salts, isomers, and salts of isomers;~~
- ~~[(c) (a) Distributes methamphetamine in any amount to a minor; or~~
- ~~[(d) (b) Manufactures methamphetamine in any amount.~~

(2) Methamphetamine trafficking ~~[in the first degree]~~ is a class A felony for which the defendant shall be sentenced as provided in subsection (3).

(3) Notwithstanding sections 706-620(2), 706-640, 706-641, 706-659, 706-669, and any other law to the contrary, a person convicted of methamphetamine trafficking ~~[in the first degree]~~ shall be sentenced to an indeterminate term of imprisonment of twenty years with a mandatory minimum term of imprisonment of not less than two years and not greater than eight years and a fine not to exceed \$20,000,000; provided that:

- (a) If the person has one prior conviction for methamphetamine trafficking pursuant to this section, promoting a dangerous drug in the first degree pursuant to section 712-1241 and methamphetamine was the drug upon which the conviction was predicated, or section 712-1240.8~~;~~ as that section was in effect prior to July 1, 2016, the mandatory minimum term of imprisonment shall be not less than six years, eight months and not greater than thirteen years, four months;
- (b) If the person has two prior convictions for methamphetamine trafficking pursuant to this section, promoting a dangerous drug in the first degree pursuant to section 712-1241 and methamphetamine was the drug upon which the conviction was predicated, or section 712-1240.8, as that section was in effect prior to July 1, 2016, the

mandatory minimum term of imprisonment shall be not less than thirteen years, four months and not greater than twenty years; or

- (c) If the person has three or more prior convictions for methamphetamine trafficking pursuant to this section, promoting a dangerous drug in the first degree pursuant to section 712-1241 and methamphetamine was the drug upon which the conviction was predicated, or section 712-1240.8[;] as that section was in effect prior to July 1, 2016, the mandatory minimum term of imprisonment shall be twenty years.”

SECTION 53. Section 712-1240.9, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§712-1240.9]]~~ **Methamphetamine trafficking; restitution and reimbursement.** When sentencing a defendant convicted of methamphetamine trafficking pursuant to section 712-1240.7 or 712-1240.8[;] as that section was in effect prior to July 1, 2016, the court may order restitution or reimbursement to the State or appropriate county government for the cost incurred for any clean-up associated with the manufacture or distribution of methamphetamine and to any other person injured as a result of the manufacture or distribution of methamphetamine.”

SECTION 54. Section 712-1241, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of promoting a dangerous drug in the first degree if the person knowingly:

- (a) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of:
  - (i) One ounce or more, containing methamphetamine, heroin, morphine, or cocaine or any of their respective salts, isomers, and salts of isomers; or
  - (ii) One and one-half ounce or more, containing one or more of any of the other dangerous drugs [~~except methamphetamine~~];
- (b) Distributes~~;~~ ~~except for methamphetamine~~:
  - (i) Twenty-five or more capsules, tablets, ampules, dosage units, or syrettes containing one or more dangerous drugs; or
  - (ii) One or more preparations, compounds, mixtures, or substances of an aggregate weight of:
    - (A) One-eighth ounce or more, containing methamphetamine, heroin, morphine, or cocaine or any of their respective salts, isomers, and salts of isomers; or
    - (B) Three-eighths ounce or more, containing any other dangerous drug;
- (c) Distributes any dangerous drug in any amount to a minor except for methamphetamine; or
- (d) Manufactures a dangerous drug in any amount, except for methamphetamine; provided that this subsection shall not apply to any person registered under section 329-32.”

SECTION 55. Section 712-1242, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of promoting a dangerous drug in the second degree if the person knowingly:

- (a) Possesses twenty-five or more capsules, tablets, ampules, dosage units, or syrettes, containing one or more dangerous drugs;
- (b) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of:
  - (i) One-eighth ounce or more, containing methamphetamine, heroin, morphine, or cocaine or any of their respective salts, isomers, and salts of isomers; or
  - (ii) One-fourth ounce or more, containing any dangerous drug; or
- (c) Distributes any dangerous drug in any amount~~], except for methamphetamine].~~

SECTION 56. Section 712-1240.8, Hawaii Revised Statutes, is repealed.

## PART IX

SECTION 57. The purpose of this part is to amend various provisions of the Hawaii Revised Statutes other than the penal code to:

- (1) Clarify that the offense of inattention to driving involves operating a motor vehicle negligently;
- (2) Simplify the definition of "alcohol" as used in chapter 291E, Hawaii Revised Statutes;
- (3) Clarify that the amount deducted from an inmate's individual account for victim restitution pursuant to section 353-22.6, Hawaii Revised Statutes, shall be deducted notwithstanding any contrary law;
- (4) Amend the definition of "family or household member" as used in chapter 586, Hawaii Revised Statutes, to be consistent with the amendments made to section 709-906, Hawaii Revised Statutes, by this Act;
- (5) Authorize a pretrial officer of the department of public safety's intake service center to invoke the assistance of the court to secure a defendant's appearance before the court when the defendant has intentionally violated the conditions of bail, recognizance, or supervised release;
- (6) Clarify a provision authorizing a court to grant a prosecutor and defense counsel access to records obtained by the adult probation division for the purpose of proceedings pursuant to chapter 704, Hawaii Revised Statutes;
- (7) Reformat for clarity and ease of use an enumerated list of felonies for which criminal charges may be instituted by written information;
- (8) Authorize an offender to request the court to remove from public access all judiciary files and other information related to an expunged offense;
- (9) Provide that chapter 853, Hawaii Revised Statutes, does not apply to certain offenders who previously have been granted a deferred acceptance of no contest plea, to be consistent with treatment of offenders who previously have been granted a deferred acceptance of guilty plea; and
- (10) Make conforming amendments to other statutes to account for amendment or repeal of various statutes by other parts of this Act.

SECTION 58. Section 291-12, Hawaii Revised Statutes, is amended to read as follows:

**"§291-12 Inattention to driving.** Whoever operates any vehicle ~~[without due care or in a manner]~~ negligently as to cause a collision with, or injury or damage to, as the case may be, any person, vehicle or other property shall be fined not more than \$500 or imprisoned not more than thirty days, or both, and may be subject to a surcharge of up to \$100, which shall be deposited into the trauma system special fund."

SECTION 59. Section 291E-1, Hawaii Revised Statutes, is amended by amending the definition of "alcohol" to read as follows:

~~"Alcohol" means [the product of distillation of any fermented liquid, regardless of whether rectified, whatever may be the origin thereof, and includes ethyl alcohol, lower aliphatic alcohol, and phenol as well as synthetic ethyl alcohol, but not denatured or other alcohol that is considered not potable under the customs laws of the United States.] ethanol or any substance containing ethanol."~~

SECTION 60. Section 353-10.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

~~"(d) As used in this section, "alternative programs" mean programs [which, from time to time,] that are created and funded by legislative appropriation or federal grant naming the department of public safety or one of its operating agencies as the expending agency and [which] that are intended to provide an alternative to incarceration. Alternative programs may include:~~

- (1) Home detention, curfew using electronic monitoring and surveillance, or both;
- (2) Supervised release, graduated release, furlough, and structured educational or vocational programs;
- ~~[(3) A program of regimental discipline pursuant to section 706-605.5;]~~ and
- ~~[(4)]~~ (3) Similar programs created and designated as alternative programs by the legislature or the director of public safety for inmates who do not pose significant risks to the community."

SECTION 61. Section 353-22.6, Hawaii Revised Statutes, is amended to read as follows:

**"§353-22.6 Victim restitution.** The director of public safety shall enforce victim restitution orders against all moneys earned by the inmate or deposited or credited to the inmate's individual account while incarcerated. ~~[The]~~ Notwithstanding any law or order to the contrary, the amount deducted shall be twenty-five per cent of the total of all moneys earned, new deposits, and credits to the inmate's individual account. The moneys intended for victim restitution shall be deducted monthly and paid to the victim once the amount reaches \$25, or annually, whichever is sooner. This section shall not apply to moneys earned on work furlough pursuant to section 353-17."

SECTION 62. Section 586-1, Hawaii Revised Statutes, is amended by amending the definition of "family or household member" to read as follows:

~~"Family or household member" [means]:~~

- (1) Means spouses or reciprocal beneficiaries, former spouses or former reciprocal beneficiaries, persons who have a child in common, parents, children, persons related by consanguinity, persons jointly residing or formerly residing in the same dwelling unit, and persons who have or have had a dating relationship~~[-]; and~~

- (2) Does not include those who are, or were, adult roommates or co-habitants only by virtue of an economic or contractual affiliation."

SECTION 63. Section 804-7.2, Hawaii Revised Statutes, is amended to read as follows:

**"§804-7.2 Violations of conditions of release on bail, recognizance, or supervised release.** (a) Upon verified application by the prosecuting attorney alleging that a defendant has intentionally violated the conditions of release on bail, recognizance, or supervised release, the judicial officer named in section 804-5 shall issue a warrant directing the defendant be arrested and taken forthwith before the court ~~[[of]]~~ record for hearing.

(b) Upon verified application by a pretrial officer of the intake service center that a defendant has intentionally violated the conditions of release on bail, recognizance, or supervised release, the court may issue an order pertaining to bail to secure the defendant's appearance before the court or a warrant directing that the defendant be arrested and taken forthwith before the court of record for hearing.

(c) A law enforcement officer having reasonable grounds to believe that a released felony defendant has violated the conditions of release on bail, recognizance, or supervised release, may, where it would be impracticable to secure a warrant, arrest the defendant and take the defendant forthwith before the court of record."

SECTION 64. Section 806-73, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) All adult probation records shall be confidential and shall not be deemed to be public records. As used in this section, the term "records" includes but is not limited to all records made by any adult probation officer in the course of performing the probation officer's official duties. The records, or the content of the records, shall be divulged only as follows:

- (1) A copy of any adult probation case record or of a portion of it, or the case record itself, upon request, may be provided to:
  - (A) An adult probation officer, court officer, social worker of a Hawaii state adult probation unit, or a family court officer who is preparing a report for the courts; or
  - (B) A state or federal criminal justice agency, or state or federal court program that:
    - (i) Is providing supervision of a defendant or offender convicted and sentenced by the courts of Hawaii; or
    - (ii) Is responsible for the preparation of a report for a court;
- (2) The residence address, work address, home telephone number, or work telephone number of a current or former defendant shall be provided only to:
  - (A) A law enforcement officer as defined in section ~~[[710-1000]]~~ to locate the probationer for the purpose of serving a summons or bench warrant in a civil, criminal, or deportation hearing, or for the purpose of a criminal investigation; or
  - (B) A collection agency or licensed attorney contracted by the judiciary to collect any delinquent court-ordered penalties, fines, restitution, sanctions, and court costs pursuant to section 601-17.5;
- (3) A copy of a presentence report or investigative report shall be provided only to:



- (A) The persons or entities named in section 706-604;
- (B) The Hawaii paroling authority;
- (C) Any psychiatrist, psychologist, or other treatment practitioner who is treating the defendant pursuant to a court order or parole order for that treatment;
- (D) The intake service centers;
- (E) In accordance with applicable law, persons or entities doing research; and
- (F) Any Hawaii state adult probation officer or adult probation officer of another state or federal jurisdiction who:
  - (i) Is engaged in the supervision of a defendant or offender convicted and sentenced in the courts of Hawaii; or
  - (ii) Is engaged in the preparation of a report for a court regarding a defendant or offender convicted and sentenced in the courts of Hawaii;
- (4) Access to adult probation records by a victim, as defined in section 706-646 to enforce an order filed pursuant to section 706-647, shall be limited to the name and contact information of the defendant's adult probation officer;
- (5) Upon written request, the victim, or the parent or guardian of a minor victim or incapacitated victim, of a defendant who has been placed on probation for an offense under section 580-10(d)(1), 586-4(e), 586-11(a), or 709-906 may be notified by the defendant's probation officer when the probation officer has any information relating to the safety and welfare of the victim;
- (6) Notwithstanding paragraph (3) and upon notice to the defendant, records and information relating to the defendant's risk assessment and need for treatment services; information related to the defendant's past treatment and assessments, with the prior written consent of the defendant for information from a treatment service provider; provided that for any substance abuse records such release shall be subject to title 42 Code of Federal Regulations part 2, relating to the confidentiality of alcohol and drug abuse patient records; and information that has therapeutic or rehabilitative benefit, may be provided to:
  - (A) A case management, assessment, or treatment service provider assigned by adult probation to service the defendant; provided that the information shall be given only upon the screening for admission, acceptance, or admittance of the defendant into a program;
  - (B) Correctional case manager, correctional unit manager, and parole officers involved with the defendant's treatment or supervision; and
  - (C) In accordance with applicable law, persons or entities doing research;
- (7) Probation drug test results may be released with prior written consent of a defendant to the defendant's treating physician when test results indicate substance use which may be compromising the defendant's medical care or treatment;
- (8) Records obtained pursuant to section 704-404(8) may be made available as provided in that section;
- ~~(8)~~ (9) Any person, agency, or entity receiving records, or contents of records, pursuant to this subsection shall be subject to the same re-

strictions on disclosure of the records as Hawaii state adult probation offices; and

- [9] (10) Any person who uses the information covered by this subsection for purposes inconsistent with the intent of this subsection or outside of the scope of the person's official duties shall be fined no more than \$500."

SECTION 65. Section 806-83, Hawaii Revised Statutes, is amended by amending subsections (a) to (c) to read as follows:

"(a) Criminal charges may be instituted by written information for a felony when the charge is a class C felony under [section];

- (1) Section 19-3.5 (voter fraud); [section]
- (2) Section 128D-10 (knowing releases); [section]
- (3) Section 132D-14(a)(1), (2)(A), and (3) (relating to penalties for failure to comply with requirements of sections 132D-7, 132D-10, and 132D-16); [section]
- (4) Section 134-7(a) and (b) (ownership or possession prohibited); [section]
- (5) Section 134-8 (ownership, etc., of automatic firearms, silencers, etc., prohibited; penalties); [section]
- (6) Section 134-9 (licenses to carry); [section]
- (7) Section 134-17(a) (relating to false information or evidence concerning psychiatric or criminal history); [section]
- (8) Section 134-24 (place to keep unloaded firearms other than pistols and revolvers); [section]
- (9) Section 134-51 (deadly weapons); [section]
- (10) Section 134-52 (switchblade knives); [section]
- (11) Section 134-53 (butterfly knives); [section]
- (12) Section 188-23 (possession or use of explosives, electrofishing devices, and poisonous substances in state waters prohibited); [section]
- (13) Section 231-34 (attempt to evade or defeat tax); [section]
- (14) Section 231-36 (false and fraudulent statements); [section]
- (15) Section 245-37 (sale or purchase of packages of cigarettes without stamps); [section]
- (16) Section 245-38 (vending unstamped cigarettes); [section]
- (17) Section 245-51 (export and foreign cigarettes prohibited); [section]
- (18) Section 245-52 (alteration of packaging prohibited); [section]
- (19) Section 291C-12.5 (accidents involving substantial bodily injury); [section]
- (20) Section 291E-61.5 (habitually operating a vehicle under the influence of an intoxicant); [section]
- (21) Section 329-41 (prohibited acts B—penalties); [section]
- (22) Section 329-42 (prohibited acts C—penalties); [section]
- (23) Section 329-43.5 (prohibited acts related to drug paraphernalia); [section]
- (24) Section 329C-2 (manufacture, distribution, or possession with intent to distribute an imitation controlled substance to a person under eighteen years of age); [section]
- (25) Section 346-34(d)(2) and (e) (relating to fraud involving food stamps or coupons); [section]
- (26) Section 346-43.5 (medical assistance frauds; penalties); [section]
- (27) Section 383-141 (falsely obtaining benefits, etc.); [section]
- (28) Section 431:2-403(b)(2) (insurance fraud); [section]

- (29) Section 482D-7 (violation of fineness standards and stamping requirements); [section]
- (30) Section 485A-301 (securities registration requirement); [section]
- (31) Section 485A-401 (broker-dealer registration requirement and exemptions); [section]
- (32) Section 485A-402 (agent registration requirement and exemptions); [section]
- (33) Section 485A-403 (investment adviser registration requirement and exemptions); [section]
- (34) Section 485A-404 (investment adviser representative registration requirement and exemptions); [section]
- (35) Section 485A-405 (federal covered investment adviser notice filing requirement); [section]
- (36) Section 485A-501 (general fraud); [section]
- (37) Section 485A-502 (prohibited conduct in providing investment advice); [section]
- (38) Section 707-703 (negligent homicide in the second degree); [section]
- (39) Section 707-705 (negligent injury in the first degree); [section]
- (40) Section 707-711 (assault in the second degree); [section]
- (41) Section 707-713 (reckless endangering in the first degree); [section]
- (42) Section 707-721 (unlawful imprisonment in the first degree); [section]
- (43) Section 707-726 (custodial interference in the first degree); [section]
- (44) Section 707-757 (electronic enticement of a child in the second degree); [section]
- (45) Section 707-766 (extortion in the second degree); [section]
- (46) Section 708-811 (burglary in the second degree); [section]
- (47) Section 708-812.6 (unauthorized entry in a dwelling in the second degree); [section]
- (48) Section 708-821 (criminal property damage in the second degree); [section]
- (49) Section 708-831 (theft in the second degree); [section]
- (50) Section 708-833.5 (shoplifting); [section]
- (51) Section 708-835.5 (theft of livestock); [section]
- (52) Section 708-836 (unauthorized control of propelled vehicle); [section]
- (53) Section 708-836.5 (unauthorized entry into motor vehicle in the first degree); [section]
- (54) Section 708-839.5 (theft of utility services); [section]
- (55) Section 708-839.55 (unauthorized possession of confidential personal information); [section]
- (56) Section 708-839.8 (identity theft in the third degree); [section]
- (57) Section 708-852 (forgery in the second degree); [section]
- (58) Section 708-854 (criminal possession of a forgery device); [section]
- (59) Section 708-858 (suppressing a testamentary or recordable instrument); [section]
- (60) Section 708-875 (trademark counterfeiting); [section]
- (61) Section 708-891.6 (computer fraud in the third degree); [section]
- (62) Section 708-892.6 (computer damage in the third degree); [section]
- (63) Section 708-895.7 (unauthorized computer access in the third degree); [section]
- (64) Section 708-8100 (fraudulent use of a credit card); [section]
- (65) Section 708-8102 (theft, forgery, etc., of credit cards); [section]
- (66) Section 708-8103 (credit card fraud by a provider of goods or services); [section]

- (67) Section 708-8104 (possession of unauthorized credit card machinery or incomplete cards); ~~[section]~~
  - (68) Section 708-8200 (cable television service fraud in the first degree); ~~[section]~~
  - (69) Section 708-8202 (telecommunication service fraud in the first degree); ~~[section]~~
  - (70) Section 709-903.5 (endangering the welfare of a minor in the first degree); ~~[section]~~
  - (71) Section 709-906 (abuse of family or household members); ~~[section]~~
  - (72) Section 710-1016.3 (obtaining a government-issued identification document under false pretenses in the first degree); ~~[section]~~
  - (73) Section 710-1016.6 (impersonating a law enforcement officer in the first degree); ~~[section]~~
  - (74) Section 710-1017.5 (sale or manufacture of deceptive identification document); ~~[section]~~
  - (75) Section 710-1018 (securing the proceeds of an offense); ~~[section]~~
  - (76) Section 710-1021 (escape in the second degree); ~~[section]~~
  - (77) Section 710-1023 (promoting prison contraband in the second degree); ~~[section]~~
  - (78) Section 710-1024 (bail jumping in the first degree); ~~[section]~~
  - (79) Section 710-1029 (hindering prosecution in the first degree); ~~[section]~~
  - (80) Section 710-1060 (perjury); ~~[section]~~
  - (81) Section 710-1072.5 (obstruction of justice); ~~[section]~~
  - (82) Section 711-1103 (riot); ~~[section]~~
  - (83) Section 711-1109.35 (cruelty to animals by fighting dogs in the second degree); ~~[section]~~
  - (84) Section 711-1110.9 (violation of privacy in the first degree); ~~[section]~~
  - (85) Section 711-1112 (interference with the operator of a public transit vehicle); ~~[section]~~
  - (86) Section 712-1221 (promoting gambling in the first degree); ~~[section]~~
  - (87) Section 712-1222.5 (promoting gambling aboard ships); ~~[section]~~
  - (88) Section 712-1224 (possession of gambling records in the first degree); ~~[section]~~
  - (89) Section 712-1243 (promoting a dangerous drug in the third degree); ~~[section]~~
  - (90) Section 712-1246 (promoting a harmful drug in the third degree); ~~[section]~~
  - (91) Section 712-1247 (promoting a detrimental drug in the first degree); ~~[section]~~
  - (92) Section 712-1249.6(1)(a), (b), or (c) (promoting a controlled substance in, on, or near schools, school vehicles, public parks, or public housing projects or complexes); ~~[section]~~
  - (93) Section 803-42 (interception, access, and disclosure of wire, oral, or electronic communications, use of pen register, trap and trace device, and mobile tracking device prohibited); or ~~[section]~~
  - (94) Section 846E-9 (failure to comply with covered offender registration requirements).
- (b) Criminal charges may be instituted by written information for a felony when the charge is a class B felony under ~~[section]~~:
- (1) Section 134-7(b) (ownership or possession prohibited, when; penalty); ~~[section]~~
  - (2) Section 134-23 (place to keep loaded firearms other than pistols and revolvers; penalties); ~~[section]~~
  - (3) Section 134-25 (place to keep pistol or revolver; penalty); ~~[section]~~

- (4) Section 134-26 (carrying or possessing a loaded firearm on a public highway; penalty); [section]
- (5) Section 329-43.5 (prohibited acts related to drug paraphernalia); [section]
- (6) Section 708-810 (burglary in the first degree); [section]
- (7) Section 708-830.5 (theft in the first degree); [section]
- (8) Section 708-839.7 (identity theft in the second degree); [section]
- (9) Section 708-851 (forgery in the first degree); [section]
- (10) Section 708-891.5 (computer fraud in the second degree); [section]
- (11) Section 708-892.5 (computer damage in the second degree); [section]  
~~712-1240.8 (methamphetamine trafficking in the second degree);~~  
[section]
- (12) Section 712-1242 (promoting a dangerous drug in the second degree); [section]
- (13) Section 712-1245 (promoting a harmful drug in the second degree); or [section]
- (14) Section 712-1249.5 (commercial promotion of marijuana in the second degree).
- (c) Criminal charges may be instituted by written information for a felony when the charge is a felony under [section]:
  - (1) Section 19-3 (election frauds); [section]
  - (2) Section 480-4 (combinations in restraint of trade, price-fixing and limitation of production prohibited); [section]
  - (3) Section 480-6 (refusal to deal); or [section]
  - (4) Section 480-9 (monopolization)."

SECTION 66. Section 831-3.2, Hawaii Revised Statutes, is amended to read as follows:

**"§831-3.2 Expungement orders.** (a) The attorney general, or the attorney general's duly authorized representative within the department of the attorney general, upon written application from a person arrested for, or charged with but not convicted of a crime, shall issue an expungement order annulling, canceling, and rescinding the record of arrest; provided that an expungement order shall not be issued:

- (1) In the case of an arrest for a felony or misdemeanor where conviction has not been obtained because of bail forfeiture;
- (2) For a period of five years after arrest or citation in the case of a petty misdemeanor or violation where conviction has not been obtained because of a bail forfeiture;
- (3) In the case of an arrest of any person for any offense where conviction has not been obtained because the person has rendered prosecution impossible by absenting oneself from the jurisdiction;
- (4) In the case of a person acquitted by reason of a mental or physical defect under chapter 704; and
- (5) For a period of one year upon discharge of the defendant and dismissal of the charge against the defendant in the case of a deferred acceptance of guilty plea or nolo contendere plea, in accordance with chapter 853.

Any person entitled to an expungement order hereunder may by written application also request return of all fingerprints or photographs taken in connection with the person's arrest. The attorney general or the attorney general's duly authorized representative within the department of the attorney general, within 120 days after receipt of the written application, shall, when so requested,

deliver, or cause to be delivered, all fingerprints or photographs of the person, unless the person has a record of conviction or is a fugitive from justice, in which case the photographs or fingerprints may be retained by the agencies holding such records.

(b) Upon the issuance of the expungement certificate, the person applying for the order shall be treated as not having been arrested in all respects not otherwise provided for in this section.

(c) Upon the issuance of the expungement order, all arrest records pertaining to the arrest ~~[which]~~ that are in the custody or control of any law enforcement agency of the state or any county government, and ~~[which]~~ that are capable of being forwarded to the attorney general without affecting other records not pertaining to the arrest, shall be so forwarded for placement of the arrest records in a confidential file.

(d) Records filed under subsection (c) shall not be divulged except upon inquiry by:

- (1) A court of law or an agency thereof which is preparing a presentence investigation for the court;
- (2) An agency of the federal or state government which is considering the subject person for a position immediately and directly affecting the national or state security; or
- (3) A law enforcement agency acting within the scope of their duties.

Response to any other inquiry shall not be different from responses made about persons who have no arrest records.

(e) The attorney general or the attorney general's duly authorized representative within the department of the attorney general shall issue to the person for whom an expungement order has been entered, a certificate stating that the order has been issued and that its effect is to annul the record of a specific arrest. The certificate shall authorize the person to state, in response to any question or inquiry, whether or not under oath, that the person has no record regarding the specific arrest. Such a statement shall not make the person subject to any action for perjury, civil suit, discharge from employment, or any other adverse action.

(f) Any person for whom an expungement order has been entered may request in writing that the court seal or otherwise remove all judiciary files and other information pertaining to the applicable arrest or case from the judiciary's publicly accessible electronic databases. The court shall make good faith diligent efforts to seal or otherwise remove the applicable files and information within a reasonable time.

~~[(f)]~~ (g) The meaning of the following terms as used in this section shall be as indicated:

"Arrest record" means any existing photographic and fingerprint cards relating to the arrest.

"Conviction" means a final determination of guilt whether by plea of the accused in open court, by verdict of the jury or by decision of the court.

~~[(g)]~~ (h) The attorney general shall adopt rules pursuant to chapter 91 necessary for the purpose of this section.

~~[(h)]~~ (i) Nothing in this section shall affect the compilation of crime statistics or information stored or disseminated as provided in chapter 846."

SECTION 67. Section 846F-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) When a defendant is also ordered to pay a fine, make restitution, pay a crime victim compensation fee, or pay other fees in addition to the internet

crimes against children fee, payments by the defendant shall be made in the order of priority established under section [706-648.] 706-\_\_\_\_."

SECTION 68. Section 853-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This chapter shall not apply when:

- (1) The offense charged involves the intentional, knowing, reckless, or negligent killing of another person;
- (2) The offense charged is:
  - (A) A felony that involves the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person; or
  - (B) A misdemeanor or petty misdemeanor that carries a mandatory minimum sentence and that involves the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person;
- (3) The offense charged involves a conspiracy or solicitation to intentionally, knowingly, or recklessly kill another person or to cause serious bodily injury to another person;
- (4) The offense charged is a class A felony;
- (5) The offense charged is nonprobationable;
- (6) The defendant has been convicted of any offense defined as a felony by the Hawaii Penal Code or has been convicted for any conduct that if perpetrated in this State would be punishable as a felony;
- (7) The defendant is found to be a law violator or delinquent child for the commission of any offense defined as a felony by the Hawaii Penal Code or for any conduct that if perpetrated in this State would constitute a felony;
- (8) The defendant has a prior conviction for a felony committed in any state, federal, or foreign jurisdiction;
- (9) A firearm was used in the commission of the offense charged;
- (10) The defendant is charged with the distribution of a dangerous, harmful, or detrimental drug to a minor;
- (11) The defendant has been charged with a felony offense and has been previously granted deferred acceptance of guilty plea [status] or no contest plea for a prior offense, regardless of whether the period of deferral has already expired;
- (12) The defendant has been charged with a misdemeanor offense and has been previously granted deferred acceptance of guilty plea [status] or no contest plea for a prior felony, misdemeanor, or petty misdemeanor for which the period of deferral has not yet expired;
- (13) The offense charged is:
  - (A) Escape in the first degree;
  - (B) Escape in the second degree;
  - (C) Promoting prison contraband in the first degree;
  - (D) Promoting prison contraband in the second degree;
  - (E) Bail jumping in the first degree;
  - (F) Bail jumping in the second degree;
  - (G) Bribery;
  - (H) Bribery of or by a witness;
  - (I) Intimidating a witness;
  - (J) Bribery of or by a juror;
  - (K) Intimidating a juror;
  - (L) Jury tampering;

- (M) Promoting prostitution in the second degree;
- (N) Abuse of family or household member;
- (O) Sexual assault in the second degree;
- (P) Sexual assault in the third degree;
- (Q) A violation of an order issued pursuant to chapter 586;
- (R) Promoting child abuse in the second degree;
- (S) Promoting child abuse in the third degree;
- (T) Electronic enticement of a child in the first degree;
- (U) Electronic enticement of a child in the second degree;
- (V) Prostitution pursuant to section 712-1200(1)(b);
- (W) Street solicitation of prostitution under section 712-1207(1)(b);
- (X) Solicitation of prostitution near schools or public parks under section 712-1209;
- (Y) Habitual solicitation of prostitution under section 712-1209.5; or
- (Z) Solicitation of a minor for prostitution under section 712-1209.1;
- (14) The defendant has been charged with:
  - (A) Knowingly or intentionally falsifying any report required under chapter 11, part XIII with the intent to circumvent the law or deceive the campaign spending commission; or
  - (B) Violating section 11-352 or 11-353; or
- (15) The defendant holds a commercial driver's license and has been charged with violating a traffic control law, other than a parking law, in connection with the operation of any type of motor vehicle."

#### PART X

SECTION 69. Act 139, Session Laws of Hawaii 2012, as amended by section 2 of Act 67, Session Laws of Hawaii 2013, is amended by amending section 14 to read as follows:

"SECTION 14. This Act shall take effect on July 1, 2012; provided that:

- (1) Section 3 shall take effect on January 1, 2013;
- (2) Section 7 shall take effect on July 1, 2012, for any individual on parole supervision on or after July 1, 2012;
- (3) Section 8 shall take effect on July 1, 2012, and shall be applicable to individuals committing an offense on or after that date; and
- (4) Sections 3, 7, 8, [10,] and 11 shall be repealed on July 1, 2018, and sections 353-10, 353-66, 706-670(1), [353-22.6,] and 353-69, Hawaii Revised Statutes, shall be reenacted in the form [on] in which they read on June 30, 2012."

SECTION 70. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date; provided that sections 54, 55, and 56 shall apply to offenses committed before the effective date of this Act:

- (1) But not yet charged as of its effective date;
- (2) Originally charged as a violation of section 712-1240.7 or 712-1240.8, Hawaii Revised Statutes, where the defendant:
  - (a) Has not yet been placed in jeopardy or convicted on a plea or verdict; and
  - (b) Waives any claim of denial of speedy trial rights for the period elapsing between the date of filing of the original charge and the date of filing of the new charge under this Act;



- (3) Originally charged as a violation of section 712-1240.7 or 712-1240.8, Hawaii Revised Statutes, for which the defendant has been convicted on a plea or verdict, but not yet sentenced, in which case the defendant shall be sentenced pursuant to this Act; and
- (4) Originally charged as a violation of section 712-1240.7 or 712-1240.8, Hawaii Revised Statutes, for which the defendant has been convicted on a plea or verdict and sentenced but for which no final judgment on appeal has been entered, in which case the appellate court shall either:
  - (a) Remand the case for sentencing pursuant to this Act if the judgment is affirmed on appeal or if the sentence is vacated; or
  - (b) Remand the case for further proceedings pursuant to this Act if the judgment is reversed and remanded for further proceedings.

SECTION 71. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>2</sup>

SECTION 72. This Act shall take effect on July 1, 2016; provided that:

- (1) Sections 5, 9, and 12 shall take effect on July 1, 2018; and
- (2) Section 64 shall take effect on June 30, 2016 and the amendments made to section 806-73(b), Hawaii Revised Statutes, in section 64 of this Act shall not be repealed when section 806-73(b), Hawaii Revised Statutes, is repealed and reenacted on July 1, 2016, pursuant to Act 119, Session Laws of Hawaii 2011.

(Became law on July 11, 2016, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

Notes

- 1. So in original.
- 2. Edited pursuant to HRS §23G-16.5.

ACT 232

H.B. NO. 2604

A Bill for an Act Relating to the Acquisition of Real Property.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board of land and natural resources shall have the exclusive responsibility, except as provided herein, of acquiring, including by way of dedications:

- (1) All real property or any interest therein and the improvements thereon, if any, required by the State for public purposes, including real property together with improvements, if any, in excess of that needed for such public use in cases where small remnants would otherwise be left or where other justifiable cause necessitates the acquisition to protect and preserve the contemplated improvements, or public policy demands the acquisition in connection with such improvements.

- (2) Encumbrances, in the form of leases, licenses, or otherwise on public lands, needed by any state department or agency for public purposes or for the disposition for houselots or for economic development.

The board shall upon the request of and with the funds from the state department or agency effectuate all acquisitions as provided under this section.

The acceptance by the territorial legislature or the legislature of a dedication of land in the Kakaako community development district by a private owner is sufficient to convey title to the State."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Became law on July 11, 2016, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 233

S.B. NO. 2542

A Bill for an Act Relating to Repair and Maintenance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to address the routine repair and maintenance of state-owned buildings, facilities, and other improvements.

More specifically, this Act establishes a policy regarding full funding for routine repair and maintenance of state-owned buildings, facilities, and other improvements. The legislature finds that this Act is necessary to:

- (1) Preserve the condition of state-owned buildings, facilities, and other improvements for public use or benefit, for the present and the future;
- (2) Prevent further additions to the State's deferred maintenance backlog;
- (3) Preserve public moneys by making near-term investments for routine repair and maintenance instead of incurring more expensive capital replacement or renewal costs in the future; and
- (4) Promote transparency by making information about the State's liabilities available to the public.

The legislature intends that this Act shall apply to the judiciary by operation of section 601-2, Hawaii Revised Statutes.

SECTION 2. Chapter 37, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

### **"PART . ROUTINE REPAIR AND MAINTENANCE**

**§37- Routine repair and maintenance; definitions.** As used in this part: "Routine repair and maintenance" means repair and maintenance performed on a scheduled repair and maintenance cycle.

"State-owned building, facility, or other improvement" means a building, facility, or other improvement owned and managed by a state executive agency. The term shall not include a state-owned building, facility, or other improvement that is leased by a state executive agency to a person.

**§37- Routine repair and maintenance funding needs; report to legislature.** (a) Each state executive agency that manages a state-owned building, facility, or other improvement shall submit to the legislature an annual report on the funds and positions deemed necessary by the agency to perform routine repair and maintenance on the state-owned building, facility, or other improvement during the fiscal year covered by the report. The annual report shall cover the fiscal year that commences following the submittal of the report and break down the funds and positions deemed necessary for routine repair and maintenance by means of financing and cost element.

(b) The annual report shall also include a comparison, for each of the prior two fiscal years, of the:

- (1) Routine repair and maintenance funds and positions deemed necessary by the state executive agency, as identified in the relevant prior reports;
- (2) Actual appropriations and positions authorized for routine repair and maintenance; and
- (3) Actual expenditures and positions filled for the routine repair and maintenance.

(c) The annual reports shall be submitted to the legislature through the department of budget and finance with each executive budget or supplemental budget, as applicable.

(d) The governor shall identify the state executive agencies that are responsible for managing a state-owned building, facility, or other improvement and, consequently, required to submit the annual report to the legislature. The governor shall require the identified state agencies to submit the reports to the department of budget and finance:

- (1) In a uniform format; and
- (2) By a deadline intended to give the department of budget and finance sufficient time to compile the reports to the legislature pursuant to subsection (c).

The department of budget and finance shall not be required to ensure the accuracy of the information in the reports.”

**SECTION 3.** Section 601-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The chief justice shall be the administrative head of the judiciary. The chief justice shall make a report to the legislature, at each regular session thereof, of the business of the judiciary and of the administration of justice throughout the State. The chief justice shall present to the legislature a unified budget, six-year program and financial plan, and variance report for all of the programs of the judiciary. The chief justice shall also submit to the legislature annual routine repair and maintenance reports for judiciary-owned buildings, facilities, and other improvements that substantially comply with chapter 37, part . The chief justice shall direct the administration of the judiciary, with responsibility for the efficient operation of all of the courts and for the expeditious dispatch of all judicial business.”

**SECTION 4.** New statutory material is underscored.

**SECTION 5.** This Act shall take effect upon its approval.

(Became law on July 11, 2016, without the governor’s signature, pursuant to Art. III, §16, State Constitution.)

## ACT 234

S.B. NO. 2559

A Bill for an Act Relating to Homelessness.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to address homelessness.

The legislature finds that homeless families and individuals deserve shelter and the general public deserves safe and clean sidewalks, parks, schools, and other public facilities. Achieving both objectives requires a strategy of making available emergency and transitional shelters that appeal to homeless families and individuals and enforcing state and county trespass and anti-nuisance statutes and ordinances. The shelters are intended to make space available to homeless families and individuals displaced from public sidewalks, parks, schools, and other public facilities by the enforcement of statutes and ordinances that prohibit camping or habitation in those areas.

This Act is intended to address the first part of the strategy: to make available more emergency and transitional shelter space funded in a cost-effective manner. More specifically, this Act:

- (1) Provides that emergency shelters shall comply with certain minimum requirements that meet basic needs and preferences of homeless families and individuals. By doing so, the legislature intends that the shelters be more appealing to homeless families and individuals;
- (2) Requires homeless shelter stipend payments to be made based on performance measures that are actually achieved. The legislature intends that this requirement incentivize emergency and transitional shelter providers to actually provide shelter to more homeless families and individuals;
- (3) Repeals the automatic annual adjustment of the homeless stipend amount. The legislature intends that any adjustment of the stipend amount shall be subject to the contract between the department of human services and the provider agency;
- (4) Revises existing provisions on the establishment and collection of shelter and service payments by a provider agency from homeless families and individuals; and
- (5) Requires each provider agency to submit a financial audit to the department at least annually.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to part XVII to be appropriately designated and to read as follows:

**“§346- Emergency shelter; minimum requirements.** (a) This section shall apply to every emergency shelter operated by a provider agency that is under contract with the department to receive homeless shelter stipends for providing shelter and services to homeless families or individuals at the emergency shelter.

(b) The department shall require an emergency shelter to comply with the following:

- (1) The shelter shall have the number of showers and bathrooms that the department deems appropriate and sufficient for the number of homeless families or individuals that use the shelter and the capacity of the shelter. The showers and bathrooms may be part of the shelter building or portable and unattached to the shelter building;

- (2) The shelter shall have partitioned space for each homeless family or individual that provides separation from other homeless families or individuals in the shelter. The minimum area of the partitioned space and height of the partition shall be determined by the department and may differ among transitional shelters, according to the number of homeless families or individuals that use the shelter and the capacity of the shelter. A shelter that provides separate rooms or portable dwelling units for homeless families or individuals, including converted shipping containers or school classrooms, shall be deemed to exceed this minimum requirement; and
- (3) The shelter shall provide storage for the personal possessions of each homeless family or individual served by the shelter. The storage shall be securable by the homeless family or individual. The type and number of the storage equipment, space, or area shall be determined by the department.
- (c) The department may require an emergency shelter to comply with any other requirements that the department deems appropriate or necessary. The requirements established by the department may vary among emergency shelters.
- (d) A provider agency contracted to operate or manage an emergency shelter not owned by the department shall comply with the minimum requirements of subsection (b). The provider agency shall bear all costs of compliance, unless the department provides or contributes state funding assistance; provided that the state funding assistance shall be:
  - (1) In addition to homeless shelter stipends paid to the provider agency under section 346-374;
  - (2) Subject to the availability of legislative appropriations; and
  - (3) Recoverable, in whole or part, by the department if the provider agency does not perform satisfactorily under or for the duration of the term of its contract with the department to operate or manage the shelter.
- (e) Any emergency shelter owned by the department shall comply with the minimum requirements under subsection (b), regardless of whether the department contracts with a provider agency to manage or operate the emergency shelter."

SECTION 3. Section 346-361, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "emergency shelter" to read:  
 "'Emergency shelter' means a homeless facility designed to provide temporary shelter and appropriate and available services to homeless families or individuals for a specified period of time[-] who are not able to stay in a transitional shelter or reside in a dwelling unit."
2. By amending the definition of "homeless shelter stipend" to read:  
 "'Homeless shelter stipend' means a payment to a provider agency ~~for~~ to ~~from the department [on behalf of]~~ to provide temporary shelter and appropriate services for a homeless family or individual ~~[to assist with the costs of operating] at a homeless facility [and providing appropriate services.]~~ operated or managed by the provider agency."
3. By amending the definition of "transitional shelter" to read:  
 "'Transitional shelter' means a homeless facility designed to provide temporary shelter and appropriate and available services for a maximum of twenty-four months to homeless families or individuals ~~[for up to twenty-four~~

months, pursuant to rule,] qualified by the pertinent provider agency or department to stay in the transitional shelter.”

SECTION 4. Section 346-371, Hawaii Revised Statutes, is amended to read as follows:

~~“[§346-371]~~ **Annual ~~[performance audits.] financial audit.~~** (a) The department shall require any provider agency that dispensed shelter or assistance for any homeless facility or any other program for the homeless authorized by this part to submit to the department a financial audit ~~[and report]~~ when requested, but ~~[no later than every three years.]~~ at least annually. The audit shall be conducted by a certified public accounting firm. This audit ~~[and report]~~ shall contain information specific to the funds received under state homeless program contracts. The audit shall include recommendations to address any problems found.

(b) Continuing contracts with provider agencies to participate in any program for the homeless authorized by this part shall require that the provider agency address the recommendations made by the ~~[auditing agency,]~~ audit, subject to exceptions as set by the department.

(c) Failure to carry out the recommendations made by the ~~[auditing agency]~~ audit may be grounds for the department to bar a provider agency from further contracts for programs authorized by this part until the barred provider has addressed all deficiencies.”

SECTION 5. Section 346-374, Hawaii Revised Statutes, is amended to read as follows:

~~“[§346-374]~~ **Homeless shelter stipends.** ~~[(a) The stipend limits per shelter unit of zero bedrooms shall be adjusted by the department annually on the first day of July pursuant to standards established by rule, which may consider changes in the cost of operating homeless facilities, the fair market rents, the consumer price index, or other relevant factors. A “shelter unit of zero bedrooms” means a living unit that is a studio unit or a single room occupancy unit. The homeless shelter stipend at transitional shelters for larger shelter units shall be proportional to the difference in unit size.~~

~~(b)]~~ (a) The department may make or may contract to make homeless shelter stipend payments ~~[on behalf of one or more homeless families or individuals]~~ to a provider agency operating or managing an emergency or transitional shelter ~~[or, if the department itself operates and manages a homeless facility, to the department in amounts and under circumstances as provided by rule. The contract may specify a minimum total amount of homeless shelter stipends to be received by a provider agency for making its shelter and services available to eligible homeless families or individuals].~~ Under each contract, the department shall pay homeless shelter stipends only for performance measures actually achieved by the provider agency, such as the number of homeless families or individuals actually provided with shelter and appropriate services at the emergency or transitional shelter. The contract also may include provisions for the automatic adjustment of the homeless shelter stipend amounts, depending on factors agreed to by the department and provider agency.

~~[(e)]~~ (b) In making homeless shelter stipend payments to a provider agency, the department may establish minimum services to be provided by the provider agency to homeless families or individuals at the provider agency’s shelter. The department may also direct provider agencies to establish and manage a savings account program as described in subsection ~~[(d)-]~~ (c). Additionally, the de-

partment may direct provider agencies to subcontract for outreach services from other private agencies specializing in programs for the unsheltered homeless.

~~[(d) Provider agencies and]~~ (c) When authorized under a contract with the department, a provider agency may establish and collect shelter and services payments from homeless families or individuals in addition to the amount received in homeless shelter stipend payments [pursuant to rule]. To the extent possible, the shelter and service payment amounts established and collected by a homeless facility, other than an emergency shelter, shall be based on the homeless families' and individuals' ability to pay. If collection of payments based on ability to pay is too difficult, costly, or inefficient for the provider agency, the payment amounts may be based on other criteria authorized under the contract or waived partially or entirely.

Provider agencies and the department may also set aside a portion of the payments in a savings account to be made available to homeless families or individuals when these families and individuals vacate the shelter.

(d) Any state funding assistance provided to a provider agency for compliance with the minimum requirements under section 346- (b) shall be in addition to homeless shelter stipends paid to the provider agency."

SECTION 6. (a) For the purpose of this section, "emergency shelter", "provider agency", and "transitional shelter" mean the same as defined under section 346-361, Hawaii Revised Statutes.

(b) Each contract that takes effect after June 30, 2017, between the department of human services and a provider agency for the operation or management of an emergency or transitional shelter shall comply with this Act. This requirement shall apply whether the contract is entered into, renewed, or extended before or after June 30, 2017.

(c) Beginning July 1, 2016, the department of human services shall work with provider agencies to implement this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on July 1, 2017; provided that section 6 shall take effect on July 1, 2016.

(Became law on July 11, 2016, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 235**

H.B. NO. 1702

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-55.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Allowance of credit.

(1) In general. For each resident taxpayer, who files an individual income tax return for a taxable year, and who is not claimed or is not

otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the employment-related expenses (as defined in subsection (b)(2)) paid by ~~such~~ the individual during the taxable year. If the tax credit claimed by a resident taxpayer exceeds the amount of income tax payment due from the resident taxpayer, the excess of the credit over payments due shall be refunded to the resident taxpayer; provided that tax credit properly claimed by a resident individual who has no income tax liability shall be paid to the resident individual; and provided further that no refunds or payment on account of the tax credit allowed by this section shall be made for amounts less than \$1.

- (2) Applicable percentage [defined]. For purposes of paragraph (1), the ~~[term "applicable percentage" means twenty five per cent reduced (but not below fifteen per cent) by one percentage point of each \$2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds \$22,000.] taxpayer's applicable percentage shall be determined as follows:~~

<u>Adjusted gross income</u>	<u>Applicable percentage</u>
<u>Not over \$25,000</u>	<u>25%</u>
<u>Over \$25,000 but</u> <u>not over \$30,000</u>	<u>24%</u>
<u>Over \$30,000 but</u> <u>not over \$35,000</u>	<u>23%</u>
<u>Over \$35,000 but</u> <u>not over \$40,000</u>	<u>22%</u>
<u>Over \$40,000 but</u> <u>not over \$45,000</u>	<u>21%</u>
<u>Over \$45,000 but</u> <u>not over \$50,000</u>	<u>20%</u>
<u>Over \$50,000</u>	<u>15%"</u>

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2015.

(Approved July 12, 2016.)

## ACT 236

H.B. NO. 260

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that transportation network companies are entities that use a digital network or software application service to connect passengers with transportation network company drivers. The legislature further finds that concerns have been raised about potential gaps in motor ve-



hicle insurance coverage associated with transportation network companies. In response, by the end of 2015, twenty-nine states had enacted legislation to establish insurance requirements covering transportation network company drivers engaged in prearranged rides, thereby protecting transportation network company drivers, their passengers, and the public.

Accordingly, the purpose of this Act is to close the insurance gaps associated with transportation network companies by establishing motor vehicle insurance requirements for transportation network companies and transportation network company drivers.

SECTION 2. Chapter 431, article 10C, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . TRANSPORTATION NETWORK COMPANIES**

**§431:10C-A Definitions.** As used in this part:

“Personal vehicle” means a vehicle that is:

- (1) Used by a transportation network company driver to provide a prearranged ride;
- (2) Owned, leased, or otherwise authorized for use by the transportation network company driver; and
- (3) Not a taxicab, limousine, or other for-hire vehicle.

“Prearranged ride” means the provision of transportation by a transportation network company driver to a passenger, beginning when a transportation network company driver accepts a passenger’s request for a ride through a digital network or software application service controlled by a transportation network company, continuing while the transportation network company driver transports the requesting passenger, and ending when the requesting passenger, or the last passenger from the requesting passenger’s party, departs from the personal vehicle. A prearranged ride shall not include transportation provided through a ridesharing arrangement, as defined in section 279G-1; use of a taxicab, limousine, or other for-hire vehicle; or a regional transportation provider.

“Transportation network company” means an entity that uses a digital network or software application service to connect passengers to transportation network company drivers; provided that the entity:

- (1) Does not own, control, operate, or manage the personal vehicles used by transportation network company drivers; and
- (2) Is not a taxicab association or a for-hire vehicle owner.

“Transportation network company driver” means an individual who operates a personal vehicle used to transport a passenger between points chosen by the passenger and prearranged through a transportation network company and that is:

- (1) Owned, leased, or otherwise authorized for use by the individual;
- (2) Not a taxicab or for-hire vehicle; and
- (3) Used to provide prearranged rides to passengers.

**§431:10C-B Relation to other laws.** Solely for the purposes of this article, neither a transportation network company nor a transportation network company driver shall be deemed to be a common carrier by motor vehicle, a contract carrier by motor vehicle, a motor carrier as defined in section 271-4, a taxicab, or a for-hire vehicle service.

**§431:10C-C Transportation network company and transportation network company driver; disclosure; limitations; insurance requirements.** (a) Upon entering into an agreement with a transportation network company driver, a transportation network company shall immediately disclose the following in writing to the transportation network company driver:

- (1) The insurance coverage and limits of liability that the transportation network company provides when the transportation network company driver uses a personal vehicle while engaged in a prearranged ride; and
- (2) That the transportation network company driver's personal motor vehicle insurance policy might not provide any required or optional coverage when the transportation network company driver uses a personal vehicle while engaged in a prearranged ride.

(b) On or before September 1, 2016, and thereafter, a transportation network company driver or transportation network company on the transportation network company driver's behalf shall maintain a primary motor vehicle insurance policy that recognizes that the transportation network company driver is a transportation network company driver or otherwise uses a personal vehicle to transport passengers for compensation and covers the transportation network company driver:

- (1) While the transportation network company driver is logged onto the transportation network company's digital network or software application service; and
- (2) While the transportation network company driver is engaged in a prearranged ride.

(c) The following motor vehicle insurance requirements shall apply while a participating transportation network company driver is logged onto the transportation network company's digital network or software application service and is available to receive transportation requests but is not engaged in a prearranged ride:

- (1) Primary motor vehicle liability insurance in the amount of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per accident, and \$25,000 for property damage per accident, costs of defense outside of all such limits;
- (2) Personal injury protection coverage that meets the minimum coverage amount where required by section 431:10C-103.5; and
- (3) The coverage requirements of this subsection may be satisfied by any of the following:
  - (A) A motor vehicle insurance policy maintained by the transportation network company driver;
  - (B) A motor vehicle insurance policy maintained by the transportation network company; or
  - (C) Any combination of subparagraphs (A) and (B).

(d) The following motor vehicle insurance requirements shall apply while a transportation network company driver is engaged in a prearranged ride:

- (1) Primary motor vehicle liability insurance that provides at least \$1,000,000 for death, bodily injury, and property damage per accident, costs of defense outside such limits;
- (2) Personal injury protection coverage that meets the minimum coverage amount where required by section 431:10C-103.5; and
- (3) The coverage requirements of this subsection may be satisfied by any of the following:
  - (A) A motor vehicle insurance policy maintained by the transportation network company driver;

(B) A motor vehicle insurance policy maintained by the transportation network company; or

(C) Any combination of subparagraphs (A) and (B).

(e) If insurance maintained pursuant to subsection (c) or (d) has lapsed or does not provide the required coverage, the transportation network company insurer shall provide the coverage required by this section beginning with the first dollar of a claim and shall have the duty to defend the claim.

(f) Insurers providing the motor vehicle insurance policies pursuant to this section shall offer the following optional coverages, which any named insured may elect to reject or purchase:

(1) Uninsured and underinsured motorist coverages for the transportation network company driver and passengers, as provided in section 431:10C-301, which shall be equal to the primary liability limits specified in subsections (c) and (d); provided that uninsured and underinsured motorist coverage offers shall also provide for written rejection of the coverages as provided in section 431:10C-301;

(2) Uninsured and underinsured motorist coverage stacking options as provided in section 431:10C-301; provided that the offer of the stacking options shall also provide for written rejection as provided in section 431:10C-301; and

(3) An offer of required optional additional insurance coverages as provided in section 431:10C-302.

(g) In the event the only named insured under the motor vehicle insurance policy issued pursuant to this section is the transportation network company, the insurer or the transportation network company shall:

(1) Disclose the coverages in writing to the transportation network company driver;

(2) Disclose to the transportation network company driver in writing that all optional coverages available may not have been purchased under sections 431:10C-301 and 431:10C-302; and

(3) Obtain a written acknowledgment from the transportation network company driver of receipt of the written disclosures required in paragraphs (1) and (2).

The standard disclosure forms used in paragraphs (1) and (2), and every modification of such forms intended to be used, must be filed with the commissioner within fifteen days of providing such disclosure to the transportation network company driver. The insurer shall also send to the transportation network company driver every modified disclosure form within fifteen days of the filing of such modified disclosure form and comply with paragraph (3). Such disclosures and acknowledgment may be sent and received by electronic means.

(h) Coverage under an insurance policy maintained by the transportation network company shall not be dependent on a personal motor vehicle insurer first denying a claim nor shall a personal motor vehicle insurance policy be required to first deny a claim.

(i) Insurance required by this section may be placed with an insurer licensed under section 431:3-203 or with a surplus lines insurer eligible under section 431:8-301 that has a credit rating of no less than A minus from A.M. Best or A from Demotech or similar rating from another rating agency recognized by the insurance division.

(j) Insurance satisfying the requirements of this section shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under chapter 287, the motor vehicle safety responsibility act.

(k) A transportation network company driver shall carry proof of coverage that meets the requirements of subsections (c) and (d) at all times dur-

ing the transportation network company driver's use of a personal vehicle in connection with a transportation network company's digital network or software application service. In the event of an accident, a transportation network company driver shall provide this insurance coverage information to the directly interested parties, motor vehicle insurers, and investigating police officers, upon request. Upon such request, a transportation network company driver shall also disclose to directly interested parties, motor vehicle insurers, and investigating police officers whether the transportation network company driver was logged on to the transportation network company's digital network or software application service or engaged in a prearranged ride at the time of the accident.

(l) Unless specified in the personal motor vehicle insurance policy or endorsement, nothing in this section shall be construed to require a personal motor vehicle insurance policy maintained by a transportation network company driver to provide primary or excess coverage while engaged in a prearranged ride. While the transportation network company driver is engaged in a prearranged ride, and notwithstanding any other law to the contrary, the following shall apply:

(1) The transportation network company driver's or the vehicle owner's personal motor vehicle insurance policy shall not be required to provide any coverage to any person or entity unless the policy expressly provides for that coverage while the driver is engaged in a prearranged ride, with or without a separate charge, or the policy contains an amendment or endorsement to provide coverage while the driver is engaged in a prearranged ride, for which a separately stated premium may be charged; and

(2) The transportation network company driver's or the vehicle owner's personal motor vehicle insurance policy shall not be required to provide a duty to defend or indemnify the driver's activities in connection with the transportation network company, unless the policy expressly provides otherwise while the driver is engaged in a prearranged ride, with or without a separate charge, or the policy contains an amendment or endorsement to provide coverage while the driver is engaged in a prearranged ride, for which a separately stated premium may be charged.

(m) This section shall not restrict any motor vehicle insurance policy coverage applicable to a passenger or pedestrian, other than the limitations in the transportation network company driver's or the vehicle owner's personal motor vehicle insurance policy described in subsection (l).

(n) Notwithstanding any other law to the contrary, a personal motor vehicle insurer may, at its discretion, offer a motor vehicle liability insurance policy, or an amendment or endorsement to an existing policy that covers a private passenger vehicle, station wagon type vehicle, sport utility vehicle, or similar type of vehicle with a passenger capacity of eight persons or less, including the driver, while the driver is logged onto the transportation network company's digital network or software application service, or while engaged in a prearranged ride, if the policy expressly provides for coverage while the driver is logged onto the transportation network company's digital network or software application service or engaged in prearranged rides, with or without a separate charge, or the policy contains an amendment or an endorsement to provide coverage while the driver is logged onto the transportation network company's digital network or software application service or engaged in a prearranged ride, for which a separately stated premium may be charged.

(o) Notwithstanding any other law affecting whether one or more policies of insurance that may apply with respect to an occurrence is primary or ex-

cess, this section shall determine the obligations under insurance policies issued to transportation network companies and, if applicable, transportation network company drivers.

**§431:10C-D Records.** (a) A transportation network company shall maintain:

- (1) Global positioning system records and electronic records for each period while a transportation network company driver is logged onto the transportation network company's digital network or software application service or is engaged in a prearranged ride for at least five years from the date each prearranged ride was provided; and
  - (2) Transportation network company driver records at least until the five year anniversary of the date on which a transportation network company driver's activation on the transportation network company digital network or software application service has ended.
- (b) Records maintained under this section shall be made readily available for purposes of an accident investigation pursuant to section 431:10C-C(k) or resolving any other dispute related to transportation network company drivers while they are logged onto the transportation network company's digital network or software application service or while they are engaged in a prearranged ride, no later than ten days after receipt of a written request for such record.

**§431:10C-E Disclaimers, waiver of liability, and indemnity agreements invalid.** None of the following agreements between a transportation network company or transportation network company driver and a passenger shall be valid or enforceable in this State:

- (1) A disclaimer of liability of a transportation network company or transportation network company driver;
- (2) A waiver, before the occurrence of an accident, of any claim or right to file a lawsuit by a passenger against a transportation network company or transportation network company driver; or
- (3) An agreement by the passenger to defend, indemnify, or hold harmless a transportation network company or transportation network company driver."

**SECTION 3.** The insurance commissioner shall conduct an annual study on the impact of this measure on personal motor vehicle insurance policy rates in the State and shall submit a written report of findings and recommendations, including any necessary proposed legislation, to the legislature no later than twenty days prior to the convening of the regular sessions of 2017, 2018, 2019, 2020, and 2021.

**SECTION 4.** If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 5.** In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 6. This Act shall take effect upon its approval; provided that section 2 of this Act shall take effect on September 1, 2016; provided further that this Act shall be repealed on September 1, 2021.

(Approved July 12, 2016.)

## ACT 237

S.B. NO. 2731

A Bill for an Act Relating to Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

## PART I

SECTION 1. The legislature finds that new affordable housing generates additional students within a school district in the same way that all other new housing development increases school enrollment. School impact fees are a direct link between new housing units and the new or expanded school facilities required to address the enrollment growth caused by the new units.

The purpose of this part is to clarify that if a new residential development within a designated school impact district requires a county subdivision approval, a county building permit, or a condominium property regime approval, then the developer is also required to fulfill certain impact fee requirements of the department of education, even if the projects are processed pursuant to section 201H-38, Hawaii Revised Statutes, or section 46-15.1, Hawaii Revised Statutes, with the involvement of the Hawaii housing finance and development corporation or a corresponding county agency.

SECTION 2. Section 302A-1603, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as provided in subsection (b), any person who seeks to develop a new residential development within a designated school impact district requiring:

- (1) A county subdivision approval;
- (2) A county building permit; or

(3) A condominium property regime approval for the project, shall be required to fulfill the land component impact fee or fee in lieu requirement and construction cost component impact fee requirement of the department, including all government housing projects[-] and projects processed pursuant to sections 46-15.1 and 201H-38.”

## PART II

SECTION 3. Section 302A-1608, Hawaii Revised Statutes, is amended to read as follows:

“**§302A-1608 Accounting and expenditure requirements.** (a) Each designated school impact district shall be a separate benefit district. Fees collected within each school impact district shall be spent only within the same school impact district for the purposes collected.

(b) Land dedicated by the developer shall be used only as a site for the construction of one or more new schools or for the expansion of existing school facilities. If the land is never used for the school facility, it shall be returned to the developer, or the developer's successor in interest. Once used, the land may

be sold, with the proceeds used to acquire land for school facilities in the same school impact district.

(c) If the land is not used for a school facility within twenty years of its dedication, it shall be returned to the developer, or the developer's successor in interest.

(d) Once used for school facilities, all or part of the land may be later sold. Proceeds from the sale shall be used to acquire land for school facilities in the same school impact district.

(e) Fee in lieu funds may be used for school site land acquisition and related expenses, including surveying, appraisals, and legal fees. ~~[Fee]~~ With the exception of urban Honolulu, fee in lieu funds shall not be used for the maintenance or operation of existing schools in the district[;]; construction costs, including architectural, permitting, or financing costs[;]; or for administrative expenses.

(f) Notwithstanding subsection (e), in urban Honolulu, fee in lieu funds may be used to purchase completed construction, construct new school facilities, improve or renovate existing structures for school use, or lease land or facilities for school use.

~~[(f)]~~ (g) Construction cost component impact fees shall be used only for the costs of new school facilities that ~~[expands]~~ expand the student capacity of existing schools or adds student capacity in new schools. Construction cost component impact fees may not be used to replace an existing school located within the same school impact district, either on the same site or on a different site.

~~[(g)]~~ (h) Eligible construction costs include planning, engineering, architectural, permitting, financing, and administrative expenses, and any other capital equipment expenses pertaining to educational facilities.

~~[(h)]~~ (i) Construction cost component impact fees shall not be expended for:

- (1) The maintenance or operation of existing schools in the district; or
- (2) Portable or temporary facilities.

~~[(i)]~~ (j) If a closure, demolition, or conversion of an existing permanent department facility within a school impact district that has the effect of reducing student capacity occurs, an amount of new student capacity in permanent buildings equivalent to the lost capacity shall not be funded with school impact fees.

~~[(j)]~~ (k) Fees in lieu, proceeds from the sale of all or part of an existing school site that has been dedicated by a developer pursuant to the requirements of this subpart, and construction cost component impact fees shall be expended or encumbered within twenty years of the date of collection. Fees shall be considered spent or encumbered on a first-in, first-out basis. An expenditure plan for all collected impact fees shall be incorporated into the annual budget process of the department and subject to legislative approval of the budget.

(l) As used in this section, "urban Honolulu" means the Kalihi to Ala Moana school impact district."

### PART III

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)

## ACT 238

H.B. NO. 1541

A Bill for an Act Relating to Planned Community Associations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 421J-4, Hawaii Revised Statutes, is amended to read as follows:

**“§421J-4 Proxies.** (a) A proxy shall be in writing and shall be valid for only a specified meeting of the association and any adjournments of that meeting.

(b) A member of the association may give a proxy to any person or the board of directors as an entity, and the proxy may be limited as indicated by the member. No proxy shall be irrevocable unless:

- (1) The proxy is coupled with a financial interest in the unit; or
- (2) The proxy is held pursuant to a first mortgage of record encumbering a unit or an agreement of sale affecting a unit.
- (c) To be valid, a proxy shall:
  - (1) Be delivered to the secretary of the association or the managing agent, if any, no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains;
  - (2) Contain at least the name of the association, the date of the meeting of the association, the printed name and signature of the person or persons giving the proxy, the unit or units for which the proxy is given, and the date that the proxy is given; and
  - (3) [Contain] If it is a standard proxy form authorized by the association, contain boxes wherein the owner has indicated that the proxy is given:
    - (A) For quorum purposes only;
    - (B) To the individual whose name is printed on a line next to this box;
    - (C) To the board of directors as a whole and that the vote be made on the basis of the preference of the majority of the ~~[board;]~~ directors present at the meeting; or
    - (D) To those directors present at the meeting and the vote to be shared with each board member receiving an equal percentage.

(d) Any board of directors that ~~[uses]~~ intends to use association funds to distribute proxies that include the election of directors shall first post notice of its intent to distribute proxies in prominent locations within the project at least ~~[thirty]~~ twenty-one days prior to its distribution of proxies; provided that if the board receives within seven days of the posted notice a request by any owner for nomination to the board accompanied by a statement, the board shall mail to all owners either:

- (1) A proxy form containing the names of all owners who have requested nomination to the board accompanied by their statements; or
- (2) A proxy form containing no names, but accompanied by a list of names of all owners who have requested nomination to the board and their statements.

The statement shall ~~[not exceed one hundred words, indicating]~~ be limited to black text on white paper and shall indicate the owner's qualifications to serve on the board [and] or reasons for wanting to receive proxies. If the board's notice of intent to distribute proxies states that the statement shall not exceed one hundred words, but a longer statement shall be available on the Internet, then:



the owner may provide a written statement, not to exceed one hundred words, together with a longer statement in an electronic file not to exceed one hundred kilobytes; and the mailing of the written statements by the association shall include an internet link informing owners that longer statements shall be available on the Internet. In all other instances, the statement shall not exceed one single-sided eight and one-half inches by eleven inches page and the association shall not be required to make a longer statement available on the Internet.

(e) Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering an apartment or under an agreement of sale affecting an apartment.

(f) Nothing in this section shall prohibit the use of proxies for filling vacancies that occur after the notice of the annual meeting has been distributed.

(g) No managing agent or resident manager, or employee thereof, shall solicit, for use by the managing agent or resident manager, any proxies from any member of the association that retains the managing agent or employs the resident manager, nor shall the managing agent or resident manager cast any proxy vote at any association meeting except for the purpose of establishing a quorum."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that the proxy statement requirements in section 1 of this Act shall apply to proxies for meetings of a planned community association that occur on or after October 1, 2016.

(Approved July 12, 2016.)

## ACT 239

S.B. NO. 2583

A Bill for an Act Relating to Composting Toilets.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Act 187, Session Laws of Hawaii 2015, authorized the counties to approve the installation and use of composting toilets in areas that are inaccessible to municipal wastewater systems. Composting toilets use no water and facilitate the production of compost that can be used to enrich the soil. In certain areas of Hawaii, geological features or the limits of existing infrastructure have made the use of conventional flush and septic systems impracticable. In such areas, the legislature finds that composting toilets are an effective way to provide toilet facilities to underserved or remote populations.

The legislature further finds that homeless individuals living in encampments frequently suffer from a lack of adequate toilet facilities. Such encampments often exist in areas where geological features such as hard volcanic rock and a shallow water table or a lack of existing infrastructure make the installation of conventional toilets impracticable. Composting toilets have already been proposed as a means to bring much-needed toilet facilities to homeless encampments in the State.

The purpose of this Act is to mandate the counties to approve the installation and use of composting toilets in areas that are inaccessible to municipal wastewater systems, thereby benefiting the people living in those communities and the health and welfare of the State as a whole.

SECTION 2. Section 27-21.6, Hawaii Revised Statutes, is amended to read as follows:

**“§27-21.6 Functions reassigned to the counties.** The following functions are hereby reassigned to the several counties:

- (1) The medical care of inmates of county jails;
- (2) The rendering of medical investigatory services requested by the police;
- (3) Physical examinations of employees to the extent that such functions had been performed immediately prior to the adoption of Act 97, Session Laws of Hawaii 1965;
- (4) The care and treatment of county workers' compensation cases to the extent that such functions had been performed immediately prior to the adoption of Act 97, Session Laws of Hawaii 1965; and
- (5) The regulation of the design, construction, and operation of individual wastewater systems and private wastewater treatment works; provided that:
  - (A) The transfer of this function to each county shall take place on the date that the expenditure of start-up funds is made by the State to such county for this purpose; and
  - (B) The counties ~~may~~ shall approve the installation and use of composting toilets in areas that are inaccessible to municipal wastewater systems. As used in this subparagraph, “composting toilet” means a toilet that uses no water or very little water and uses natural processes to treat waste.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 12, 2016.)

**ACT 240**

**H.B. NO. 1852**

**A Bill for an Act Relating to Water Pollution.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the clean water state revolving fund loan program is a federal-state partnership that assists in financing the construction of water pollution control projects necessary to prevent contamination of groundwater and coastal resources, and to protect the health, safety, and welfare of the State. To achieve these purposes, the program provides low interest loans to state and county agencies to construct water pollution control projects.

The legislature further finds that the areas of the State that are more likely to have cesspools would be greatly served by wastewater treatment works. Additionally, while the State or counties may not place a priority on providing water pollution control facilities to areas with prominent cesspool usage,

some residents of these areas are willing to work together to plan, design, and construct wastewater treatment works. However, wastewater treatment works can have significant costs, and because the clean water state revolving fund loan program only provides loans to state and county agencies, interested groups of residents cannot access this funding mechanism to plan, design, and construct wastewater treatment works in their areas.

The purpose of this Act is to clarify the entities eligible to receive loans from the water pollution control revolving fund, including nonprofit organizations.

SECTION 2. Section 342D-83, Hawaii Revised Statutes, is amended to read as follows:

**“§342D-83 Revolving fund; establishment, purposes, coordination. (a)**

There is established in the state treasury a fund to be known as the water pollution control revolving fund to be administered by the director. The revolving fund shall be administered, operated, and maintained to remain available in perpetuity for its stated purpose.

(b) The purpose of the revolving fund is to provide financial assistance to eligible parties for projects or activities to:

- (1) Enable counties and state agencies to plan, design, and construct publicly owned wastewater treatment works in accordance with [Title] title 33 United States Code sections 1381 to 1387;
- (2) Enable eligible parties to implement management programs established under [Title] title 33 United States Code section 1329; [and]
- (3) Enable eligible parties to implement conservation and management plans established under [Title] title 33 United States Code section 1330[-];
- (4) Enable eligible parties to construct, repair, or replace a privately owned decentralized wastewater treatment system and individual wastewater system that treats municipal wastewater or domestic sewage under title 33 United States Code section 1383;
- (5) Enable eligible nonprofit entities to provide assistance to small and medium sized publicly owned treatment works for training activities, planning, design, and associated preconstruction activities under title 33 United States Code section 1383;
- (6) Enable eligible parties to manage, reduce, treat, or recapture stormwater or subsurface drainage water under title 33 United States Code section 1383;
- (7) Enable eligible parties to develop and implement watershed projects meeting the criteria under title 33 United States Code section 1274;
- (8) Enable counties and state agencies to reduce the demand for publicly owned treatment works capacity through water conservation, efficiency, or reuse under title 33 United States Code section 1383;
- (9) Enable counties and state agencies to reduce the energy consumption needs for publicly owned treatment works under title 33 United States Code section 1383;
- (10) Enable eligible parties to reuse or recycle wastewater, stormwater, or subsurface drainage water under title 33 United States Code section 1383; and
- (11) Enable eligible parties to increase the security of publicly owned treatment works under title 33 United States Code section 1383.”

SECTION 3. Section 342D-87, Hawaii Revised Statutes, is amended to read as follows:

**“[H]§342D-87[H] Revolving fund; conditions.** (a) The following conditions shall apply to each project receiving water pollution control financing under this part:

- (1) The project shall conform with the state water quality management plan developed under [Title] title 33 United States Code section 1285(j), 1288, 1313(e), 1329, or 1330;
- (2) The project shall be certified by the director as entitled to priority over other eligible projects on the basis of financial and water pollution control needs;
- (3) In the case of wastewater treatment works construction projects, the application or agreement for the loan shall contain:
  - (A) Reasonable assurances that the applicant will provide for the proper and efficient operation and maintenance of the treatment works after its construction;
  - (B) Reasonable assurances by the applicant that an impact fee structure will be instituted to ensure that new developments pay their appropriate share of the costs of the wastewater treatment works, as determined by the counties; and
  - (C) [~~Such~~] Any other provisions required by federal or state law or deemed necessary or convenient by the director;
- (4) The county or state agency receiving these funds for a construction project shall require the installation of the low flow water fixtures and devices for faucets, hose bibbs, showerheads, urinals, and toilets in all new construction projects; provided that the fixtures and devices shall be approved by the International Association of Plumbing and Mechanical Officials and shall comply with applicable American National Standards Institute standards and [~~such~~] any other standards as may be required by the respective county for all new residential and public buildings; and
- (5) The county receiving these funds shall take specific steps to reduce polluted runoff into state waters through educational and regulatory programs.

(b) The use of federal funds and state matching funds in the revolving fund shall be in conformance with [Title] title 33 United States Code sections 1381 to 1387.

(c) The director may make and condition loans from the revolving fund which shall:

- (1) Be made at or below market interest rates; ~~and~~
- (2) Require periodic payments of principal and interest with repayment commencing not later than one year after completion of the project for which the loan is made; ~~and~~
- (3) ~~Be fully amortized not later than twenty years after project completion.];~~

provided that all loans shall be fully amortized upon the expiration of the term of the loan.

(d) No loan of funds from the revolving fund shall be made unless the loan recipient pledges a dedicated source of revenue for the repayment of the loans. This pledge may be a county's full faith and credit (a general obligation payable from its general fund), special assessments, revenues from an undertaking, system, or improvements, including user charges, or any other source of revenue.

(e) Notwithstanding section 414D-85 to the contrary, the director may hold individual members of the nonprofit organization that received the loan jointly and severally liable for the nonpayment or default of the loan."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)

ACT 241

H.B. NO. 2018

A Bill for an Act Relating to Government Processes and Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that there are great inconsistencies and a general lack of accountability in the management and construction of government capital improvement projects. In response to these concerns, the legislature adopted and the governor signed into law Act 177, Session Laws of Hawaii 2015, which directed the auditor to review the process, efficiencies, and accountability of various departmental engineering sections that manage general fund capital improvement projects.

The purpose of this Act is to implement the auditor's recommendations.

SECTION 2. Chapter 103, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§103- Capital improvement projects; personnel training; management.** (a) The comptroller shall conduct annual training for the engineering personnel of all executive departments and state agencies that manage their own capital improvement projects to ensure compliance with state adopted standards and procedures of best practices in the management and construction of capital improvement projects. Each department and agency shall provide orientation training for new employees subject to this subsection and who are hired during the interim between annual trainings.

(b) All executive departments and state agencies that manage their own capital improvement projects shall:

- (1) Use timelines that include a comprehensive list of all activities required on a project, and not simply rely on contractor timelines, which may not reflect all project phases. At a minimum, the list shall include all phases in a project's life cycle, namely, the initiation, planning, design, bid, construction, and post construction phases;
- (2) Follow state procurement office guidance for tracking payments and deliverables by using a contract administration worksheet that includes milestones or deliverables, which are marked off as items are completed; and
- (3) To help ensure end-user satisfaction with their capital improvement projects, identify and involve stakeholders throughout a project's execution and closing, including providing information about project costs, schedules, and performance."

SECTION 3. No later than twenty days prior to the convening of the regular session of 2017, the department of accounting and general services shall submit a status report to the legislature on the implementation of practices required by this Act.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 242**

H.B. NO. 254

A Bill for an Act Relating to Medicines.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that biologics are a class of medicines available to treat disease. Unlike traditional drugs, which are chemically manufactured, biologics are manufactured in living cells. Common biologics in use today include human growth hormone, injectable treatments for arthritis and psoriasis, the Hepatitis B vaccine, and stem cell therapy.

The term “biosimilars” refers to substitute versions of brand-name biologics, similar to generic versions of brand-name drugs. These substitutes are not exactly identical to brand-name biologics but are designed to provide commensurate benefits to patients at lower costs. At least nineteen biosimilars are currently approved for use in the European Union.

The Patient Protection and Affordable Care Act, signed into law by President Barack Obama in 2010, created an abbreviated licensure pathway for biological products that are demonstrated to be biosimilar to or interchangeable with a biologic product licensed by the United States Food and Drug Administration (FDA). In early 2015, the FDA approved its first biosimilar drug, Zarxio for use in the United States. Zarxio is used to help prevent infections in cancer patients receiving chemotherapy and is a close copy of an existing medication called Neupogen. Market research reports that there are at least one hundred fifty biosimilars in development.

As of September 15, 2015, sixteen states and Puerto Rico have passed legislation to regulate the substitution of biosimilars for brand-name biologics by pharmacists, and at least thirty-one states have considered similar legislation. Other important issues relating to state regulation of biosimilars include the powers and duties of prescribing authorities, notice to patients, safety, and recordkeeping.

The legislature further finds that the drug product selection board is no longer necessary and its purpose, namely creating the Hawaii additions and deletions list, is better served by reassigning that responsibility to the director of health and combining the responsibility to amend the list of substitutable generic drug products and biological products with the responsibility the director already has for initially creating that same list.

The purpose of this Act is to:

- (1) Allow for the regulation of biosimilar medicines to ensure patient safety and access to medicines at lower prices; and
- (2) Repeal the drug product selection board and transfer the board's duties of creating the list of substitutable generic drug products and biological products to the director of health.

SECTION 2. Section 328-16, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A prescription drug shall be dispensed only if its label bears the following:

- (1) The name, business address, and telephone number of the seller. The business address shall be the physical location of the pharmacy or the dispensing practitioner's office;
- (2) Except as otherwise authorized for expedited partner therapy in section 453-52, the name of the person for whom the drug was prescribed or the name of the owner of the animal for which the drug was prescribed;
- (3) The serial number of the prescription;
- (4) The date the prescription was prepared;
- (5) The name of the practitioner if the seller is not the practitioner;
- (6) The name, strength, and quantity of the drug;
- (7) The "use by" date for the drug, which shall be:
  - (A) The expiration date on the manufacturer's container; or
  - (B) One year from the date the drug is dispensed, whichever is earlier;
- (8) The number of refills available, if any;
- (9) In the case of the dispensing of an equivalent generic drug product, the statement "same as (brand name of the drug product prescribed or the referenced listed drug name)", or words of similar meaning; [and]
- (10) In the case of the dispensing of an interchangeable biological product, the statement "interchangeable with (brand name of the biological product prescribed or the referenced biological drug name)", or words of similar meaning; and
- [40] (11) Specific directions for the drug's use; provided that if the specific directions for use are too lengthy for inclusion on the label, the notation "take according to written instructions" may be used if separate written instructions for use are actually issued with the drug by the practitioner or the pharmacist, but in no event shall the notation "take as directed", referring to oral instructions, be considered acceptable.

If any prescription for a drug does not indicate the number of times it may be refilled, if any, the pharmacist shall not refill that prescription unless subsequently authorized to do so by the practitioner. The act of dispensing a prescription drug other than a professional sample or medical oxygen contrary to this subsection shall be deemed to be an act that results in a drug being misbranded while held for sale."

SECTION 3. Section 328-91, Hawaii Revised Statutes, is amended as follows:

1. By adding five new definitions to be appropriately inserted and to read: "Biological product" or "biologic product" has the same meaning as defined in Title 42 United States Code section 262, as the same may be amended.

"Drug product" means a drug as defined in section 328-1 other than a biological product as defined in this part.

"Hawaii list of equivalent generic drug products and interchangeable biological products" means the list of equivalent generic drug products and interchangeable biological products, which may include references to the Orange Book, the Purple Book, and other published findings and approvals of the United States Food and Drug Administration, created and published by the director pursuant to the director's authority in this part to approve drug products and biological products that pharmacists may substitute with equivalent generic drug products and interchangeable biological products.

"Interchangeable biological product" means a biological product approved by the director as substitutable by pharmacists and included in the Hawaii list of equivalent generic drugs and interchangeable biological products.

"Purple Book" means the United States Food and Drug Administration's "List of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations" publication and its cumulative supplements, which include a list of licensed biological products with biosimilarity and interchangeability evaluations."

2. By amending the definition of "equivalent generic drug product" to read:

"Equivalent generic drug product" means a drug product [with the same established name, active ingredient strength, quantity, and dosage form as the drug product identified in the prescription, and: (1) that is listed as therapeutically equivalent (i.e., addition) in the current Hawaii additions and deletions list; or (2) that is listed in the compendia of therapeutically equivalent generic drug products and is not listed as therapeutically inequivalent (i.e., deletion) in the Hawaii additions and deletions list.] approved by the director as substitutable by pharmacists and included in the Hawaii list of equivalent generic drug products and interchangeable biological products."

3. By amending the definition of "savings" to read:

"Savings" means the financial benefit derived from utilizing the substituted equivalent generic drug product or interchangeable biological product from the perspective of the consumer or the ultimate payer, including third party payers."

4. By repealing the definition of "board".

["Board" means the drug product selection board.]"

5. By repealing the definition of "compendia of therapeutically equivalent generic drug products".

["Compendia of therapeutically equivalent generic drug products" means the Orange Book and any United States Food and Drug Administration documentation of any United States Food and Drug Administration approved generic drug product with therapeutic equivalency evaluations, including but not limited to:

- (1) Letters of approval of Abbreviated New Drug Applications with therapeutic equivalency evaluations;
- (2) Published listings of approved New Drug Applications or approved Abbreviated New Drug Applications with therapeutic equivalency evaluations; and
- (3) Listings of first time generics with therapeutic equivalency evaluations, adopted by the director."

6. By repealing the definition of "Hawaii additions and deletions list".

["Hawaii additions and deletions list" means:

- (1) A list of drug products that the board has determined to be safe, effective, and therapeutically equivalent generic drug products but are



not in the compendia of therapeutically equivalent generic drugs;  
and

- (2) ~~A list of drug products that are included in the compendia of therapeutically equivalent generic drugs, but that the board has determined not to be safe, effective, therapeutically equivalent, or bio-equivalent generic drug products.”]~~

7. By repealing the definition of “multiple source drug”.

[““Multiple source drug” means a drug marketed or sold by two or more manufacturers or labelers or a drug marketed or sold by the same manufacturer or labeler under two or more different brand names, or both, under a brand name and without such a name.”]

SECTION 4. Section 328-92, Hawaii Revised Statutes, is amended to read as follows:

**“§328-92 Drug product and biological product selection.** (a) When filling a prescription order for a drug prescribed by its brand name, a pharmacist or the pharmacist’s authorized agent shall:

- (1) Offer to the consumer an equivalent generic drug product or an interchangeable biological product from the [formulary] Hawaii list of equivalent generic drug products and interchangeable biological products adopted pursuant to section 328-96; [and]

- (2) Upon the request of the consumer, inform the consumer of the savings; and

- (3) Inform the consumer of the consumer’s right to refuse substitution.

The pharmacist shall substitute an equivalent generic drug product or an interchangeable biological product if the practitioner does not prohibit substitution under subsection (b), and the substitute equivalent generic drug product or interchangeable biological product results in a savings. The pharmacist shall not substitute if the consumer refuses.

(b) The pharmacist shall not substitute an equivalent generic drug product or an interchangeable biological product if the practitioner indicates “brand medically necessary” or words of similar meaning on the prescription. The designation “brand medically necessary” or other similar words or phrases must be handwritten by the practitioner and shall not be preprinted or stamped on the written prescription. The pharmacist shall not substitute an equivalent generic drug product or an interchangeable biological product if a prescription is orally or electronically ordered and the practitioner or authorized employee of the practitioner indicates “brand medically necessary” or other similar words or phrases.

The pharmacist shall note the practitioner’s instructions on the prescription record required to be maintained under section 328-17.7.

This subsection shall not apply when it does not comply with any federal requirement for services reimbursable by medicaid or medicare.

(c) The pharmacist shall not substitute an equivalent generic drug product or an interchangeable biological product for any prescription for an anti-epileptic drug, except upon the consent of the practitioner and the patient or the patient’s parent or guardian. This narrow exception for epileptic patients shall not be construed as a policy decision to make exceptions for any other conditions.

(d) Within two business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist’s designee shall communicate to the practitioner the specific product provided to the patient, including the name of the product and the manufacturer. The communication shall be

conveyed by making an entry that is electronically accessible to the practitioner through:

- (1) An interoperable electronic medical records system;
- (2) An electronic prescribing technology;
- (3) A pharmacy benefit management system; or
- (4) A pharmacy record.

(e) Entry into an electronic records system as described in subsection (d) is presumed to provide notice to the prescriber. Otherwise, the pharmacist shall communicate the biological product dispensed to the prescriber using facsimile, telephone, electronic transmission, or other prevailing means, provided that communication shall not be required where:

- (1) There is no interchangeable biological product approved by the United States Food and Drug Administration for the product prescribed; or
- (2) A refill prescription is not changed from the product dispensed on the prior filling of the prescription.

[(d)] (f) The county prosecutors and the attorney general may bring action upon complaint by an aggrieved person or upon their own motion in the name of the State against any person to enjoin any violation of this part."

SECTION 5. Section 328-94, Hawaii Revised Statutes, is amended to read as follows:

**"§328-94 Prescription record.** Each pharmacist or practitioner shall maintain a record of any substitution of an equivalent generic drug product or an interchangeable biological product for a prescribed brand name drug product as provided in this part."

SECTION 6. Section 328-96, Hawaii Revised Statutes, is amended to read as follows:

**"§328-96 [Drug formulary; Hawaii additions and deletions list.]** Hawaii list of equivalent generic drug products and interchangeable biological products. (a) The [board] director may adopt rules, pursuant to chapter 91, to effectuate the purpose of this part. Without regard to chapter 91, the director may adopt as rules, and amend as necessary, the [compendia of therapeutically equivalent generic drug products as the state drug formulary of equivalent multiple source drug products. The board may adopt rules pursuant to chapter 91 to establish a Hawaii additions and deletions list. Upon the adoption of the compendia of therapeutically equivalent generic drug products by the director, the department shall notify all pharmacies in the State and other interested individuals, within thirty working days, that the formulary has been updated.] Hawaii list of equivalent generic drug products and interchangeable biological products, which shall serve as the state list of substitutable equivalent generic drug products and interchangeable biological products. The director's approval of the substitutability of equivalent generic drug products and interchangeable biological products shall be informed by the findings of the United States Food and Drug Administration, which are documented and periodically updated through the following:

- (1) For a generic drug product: the Orange Book and any United States Food and Drug Administration documentation of any United States Food and Drug Administration-approved generic drug product with therapeutic equivalency, including:
  - (A) Letters of approval of Abbreviated New Drug Applications with therapeutic equivalency evaluations;

- (B) Published listings of approved New Drug Applications or approved Abbreviated New Drug Applications with therapeutic equivalency evaluations; and
- (C) Listing of first time generics with therapeutic equivalency evaluations;
- (2) For a biological product: approval under the Public Health Service Act, the Purple Book, and any United States Food and Drug Administration documentation of any United States Food and Drug Administration-approved interchangeability determination, including:
  - (A) Letters of approval of Biologic Licensing Applications with a determination that the biological product meets the criteria for interchangeability as set forth in title 42 United States Code section 262(k)(4); and
  - (B) Published listings of approved Biologic Licensing Applications with a determination that the biological product meets the criteria for interchangeability as set forth in Title 42 United States Code section 262(k)(4); and
- (3) For a biological product approved under the Federal Food, Drug, and Cosmetic Act: the Orange Book and any United States Food and Drug Administration documentation of any United States Food and Drug Administration-approved interchangeability determination, including:
  - (A) Letters of approval of approved New Drug Applications or approved Abbreviated New Drug Applications with therapeutic equivalency evaluations; and
  - (B) Published listings of approved New Drug Applications or approved Abbreviated New Drug Applications with therapeutic equivalency evaluations.
- (b) The director shall maintain an official record of, and update as necessary, the Hawaii list of equivalent generic drugs and interchangeable biological products electronically on the department's website, which shall be accessible to pharmacists and other interested persons.
- (c) The Hawaii [additions and deletions] list [may list additional] of equivalent generic drug products and interchangeable biological products shall only include substitutable generic drug products and interchangeable biological products that are determined by the [board] director to be safe, effective, and therapeutically equivalent[-The Hawaii additions and deletions list may delete drug products listed in the compendia of therapeutically equivalent generic drug] or interchangeable. The director shall not approve as substitutable, and the Hawaii list of equivalent generic drug products and interchangeable biological products shall not include, any biological products that the United States Food and Drug Administration has neither licensed and determined as meeting the standards for interchangeability pursuant to Title 42 United States Code section 262(k)(4) nor determined as therapeutically equivalent as set forth in the latest edition of or supplement to the United States Food and Drug Administration's approved drug products with therapeutic equivalence evaluations.
- (d) The director may remove from the Hawaii list of equivalent generic drug products and interchangeable biological products any products upon the [board's] director's finding that [product] the safety, quality, efficacy, or therapeutic equivalency or bioequivalency, as appropriate, is not adequately assured.
- ~~(b) Pursuant to chapter 91, the Hawaii additions and deletions list may be changed, added to, or deleted from as the board deems appropriate.]~~

(e) Any person who requests that any ~~[change]~~ modification be made ~~to, or that a drug product or biological product be [included or] added to [or deleted] or removed from,~~ the Hawaii ~~[additions and deletions]~~ list of equivalent generic drug products and interchangeable biological products shall have the burden of proof to show cause why the ~~[change, inclusion,]~~ modification, addition, or ~~[deletion]~~ removal should be made.

~~[(e)]~~ The board shall revise or supplement the Hawaii additions and deletions list as necessary.

~~[(d)]~~ The department shall provide for distribution of the Hawaii additions and deletions list and its revisions and supplements, and the dissemination of notices of changes to the compendia of therapeutically equivalent generic drug products to all pharmacies in the State and to any other interested individuals. The department may establish fees to be charged to persons who receive the Hawaii additions and deletions list and its revisions and supplements, and notices of changes to the compendia of therapeutically equivalent generic drug products. The amounts of the fees charged shall be approximately the same as the costs of producing and distributing the Hawaii additions and deletions list and its revisions and supplements, and the notices of changes to the compendia of therapeutically equivalent generic drug products.

~~[(e)]~~ ~~[(f)]~~ Each pharmacy in the State shall:

~~[(1)]~~ ~~Maintain and] update [the compendia of therapeutically equivalent generic drug products] and maintain its physical copies and electronic records of the Hawaii list of equivalent generic drug products and interchangeable biological products as it is approved and periodically updated and amended by the director]; and~~

~~[(2)]~~ ~~Obtain the Hawaii additions and deletions list].~~

~~[(f)]~~ ~~[(g)]~~ The department shall provide for public education regarding the provisions of this part and shall monitor the effects of this part."

SECTION 7. Section 328-97, Hawaii Revised Statutes, is amended to read as follows:

~~["§328-97"]~~ **Posting requirements.** Every pharmacy shall prominently display, in clear and unobstructed public view, a sign in block letters ~~[which] that~~ shall read:

**"HAWAII LAW REQUIRES THAT LESS EXPENSIVE GENERICALLY EQUIVALENT DRUG PRODUCTS AND INTERCHANGEABLE BIOLOGICAL PRODUCTS BE OFFERED TO THE CONSUMER. CONSULT YOUR PHYSICIAN AND PHARMACIST CONCERNING THE AVAILABILITY OF THE LEAST EXPENSIVE DRUG PRODUCT FOR YOUR USE."**

The letters must be at least one inch in height."

SECTION 8. Section 328-98, Hawaii Revised Statutes, is amended to read as follows:

**"§328-98 Pharmacist liability.** A pharmacist who selects an equivalent generic drug product or an interchangeable biological product pursuant to this part assumes no greater liability for selecting the dispensed drug product than would be incurred in filling a prescription for a drug product prescribed by its established name."

SECTION 9. Section 328-95, Hawaii Revised Statutes, is repealed.

SECTION 10. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 11. This Act shall take effect on July 1, 2016.  
(Approved July 12, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 243**

H.B. NO. 1050

A Bill for an Act Relating to Interisland Movement of Invasive Species.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the interisland spread of invasive species is harmful to agriculture, native biota, public health, and the economic well-being of the State. Further, the legislature finds that these pests continue to move to new areas within the State through varied transportation methods and on various agricultural and non-agricultural commodities, which may or may not be subject to inspection for pests or subject to treatment. The legislature further finds that the plant quarantine branch of the department of agriculture is a critical component in meeting the threat of invasive species entering Hawaii and spreading throughout Hawaii through the State's ports of entry.

To more effectively mitigate the spread of invasive species, the Hawaii invasive species council and the biosecurity program of the department of agriculture should use their strengths and resources more efficiently. The Hawaii invasive species council should direct the invasive species committees to focus their resources on reducing invasive species in non-agricultural areas, specifically conservation lands and residential areas. The department of agriculture should focus its resources on preventing the introduction of invasive species into Hawaii and reducing invasive species in agricultural production areas and performing inspections, certifications, and treatments, if required.

SECTION 2. Section 150A-57, Hawaii Revised Statutes, is amended to read as follows:

**“[H]§150A-57[H] Annual report.** The department shall submit an annual report on the biosecurity program to the legislature no later than twenty days prior to the convening of each regular session of the legislature. The ~~[schedule]~~ report shall include:

- (1) ~~The schedule~~ required under section 150A-56 ~~[shall be included in the pertinent annual report.];~~
- (2) The status of each activity required by Act , Session Laws of Hawaii 2016, including for each activity:
  - (A) All expenditures;
  - (B) Descriptions of and the purposes of any activity-related travel;
  - (C) Workforce allocation; and
  - (D) Measure of effectiveness;
- (3) Summary of interisland inspections and export inspection activities;
- (4) Projections by year of future expenditures and future acreage to be under pest management by crop; and

- (5) Activities yet to be completed, and, if applicable, an explanation why they were not completed."

SECTION 3. The department of agriculture shall work through existing contracts and appropriated funds for invasive species activities to undertake invasive species management related to agricultural lands and agricultural and non-agricultural commodities as follows:

- (1) The department of agriculture shall use general funds to:
  - (A) Develop an interisland and export database that allows for the trace-back and trace-forward of agricultural commodities, type and varieties inspected by the department of agriculture, quantity of commodities, and other pertinent information. All proprietary information shall be kept confidential by the department of agriculture;
  - (B) Increase the priority of inspection of agricultural commodities transported between islands, without impacting or jeopardizing the inspection of imported agricultural commodities from out-of-state;
  - (C) Develop quarantine treatments for high-risk commodities moving between islands; and
  - (D) Coordinate planning with the department of transportation for inspection and quarantine treatment capabilities at or adjacent to ports of entry; and
- (2) The department of agriculture shall use general funds to increase detection, response, and control programs to address agricultural pests statewide.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the purposes set forth in section 3(1) of this Act.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$800,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the purposes set forth in section 3(2) of this Act.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the planning, site selection, preparation of environmental documentation, and preliminary design for two facilities; provided that one facility shall be for edible agricultural crops and the other shall be for non-edible agricultural crops for the purpose of marshalling and treatment of commodities prior to the interisland movement or export from the island of Hawaii.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 7. There is appropriated from the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the auditor to conduct a financial and performance audit of the duties and facilities of the plant quarantine branch of the department of agriculture, including the branch's biosecurity programs and related

programs; provided that the auditor shall submit a report of findings and recommendations, including proposed legislation, to the governor and the legislature no later than twenty days prior to the convening of the regular session of 2017.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)

**ACT 244**

H.B. NO. 2646

A Bill for an Act Relating to Environmental Protection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that protecting the environment and underground sources of drinking water is in the best interest of public health and safety and required under article XI, section 7, of the state constitution.

The legislature also finds that since 2005, petroleum chemical contaminants have been detected in the groundwater and rocks beneath the United States Department of the Navy's Red Hill Bulk Fuel Storage Facility fuel tanks. In January 2014, the facility's tank number five released twenty-seven thousand gallons of fuel into underground rocks and groundwater. The current location of the released fuel is unknown.

The Red Hill Bulk Fuel Storage Facility fuel tanks have been corroding for more than seventy years. The corrosion has caused significant thinning of the steel tank walls and, in some cases, has fully penetrated the steel. The ongoing corrosion damages the steel walls of the fuel tanks, as well as the steel reinforcement in the surrounding concrete, and can lead to more frequent and larger fuel releases than have occurred in the past.

The legislature further finds that the installation of monitor wells is crucial to test groundwater underneath and surrounding the Red Hill Bulk Fuel Storage Facility to protect Oahu's fresh water supply. While it should be the duty of the United States Navy to fund efforts to monitor and remediate fuel leaking from the Red Hill Bulk Fuel Storage Facility, the protection of Oahu's drinking water supply is of such critical importance to the health and safety of the people of Hawaii that as a first step, the local board of water supply is funding the installation of two test wells in the area. The State is also funding two test wells in the area, and the people of Hawaii are waiting for the United States Navy to provide funding for at least four additional wells.

The purpose of this Act is to protect public health by establishing a permanent fuel tank advisory committee.

SECTION 2. Chapter 342L, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . FUEL TANK ADVISORY COMMITTEE**

**§342L- Fuel tank advisory committee; established; composition.** (a) There is established in the department of health the fuel tank advisory commit-

tee, which shall consist of up to fourteen ex officio members and at least two public members.

- (b) The ex officio members of the committee shall be:
  - (1) The director of health, who shall serve as the committee's chair;
  - (2) The four members of Hawaii's congressional delegation, or their designees;
  - (3) The president of the Hawaii senate, or a senator appointed by the president of the senate;
  - (4) The speaker of the Hawaii house of representatives, or a representative appointed by the speaker of the house;
  - (5) The chairperson of the board of land and natural resources, or the chairperson's designee;
  - (6) The chairperson of the board of water supply of a county with a population of five hundred thousand or more, or the chairperson's designee; and
  - (7) The chairperson of the commission on water resource management, or the chairperson's designee.
- (c) The following persons shall be invited to participate on the advisory committee as ex officio members:
  - (1) The Commanding General of the United States Army, Pacific, or the Commanding General's designee;
  - (2) The Commander of the Pacific Fleet of the United States Navy, or the Commander's designee;
  - (3) The Commander of the Pacific Air Forces, or the Commander's designee; and
  - (4) A representative from the United States Environmental Protection Agency, or the representative's designee.
- (d) The governor shall appoint at least two public members from the community at large in accordance with section 26-34; provided that the advice and consent of the senate shall not be necessary.
- (e) The public members of the advisory committee shall receive no salary, but shall be entitled to reimbursement for necessary expenses, including travel expenses.

**§342L- Duties.** (a) The advisory committee shall study issues related to leaks of field-constructed underground fuel storage tanks at the Red Hill Bulk Fuel Storage Facility, Kuahua Peninsula, Pacific Missile Range Facility Barking Sands, Hickam Pol Annex, and Schofield Barracks Military Reservation. The advisory committee shall consider:

- (1) The short- and long-term effects of leaks of the fuel tanks, including effects relating to the health of residents, safe drinking water, and the environment;
- (2) Response strategies to mitigate the effects of leaks from fuel tanks;
- (3) Methods to improve communication between the United States Navy, Air Force, and Army; the State; any local board of water supply; and the public in the event of a leak of any fuel tank;
- (4) Groundwater test results in relation to the surrounding areas of fuel tank facilities, with a particular emphasis on the groundwater near the Red Hill Bulk Fuel Storage Facility;
- (5) The implications of shutting down any fuel tank facility; and
- (6) Updates on progress toward meeting goals of agreement between the State, the affected county, and the federal government.



(b) No later than twenty days before the convening of each regular session, the advisory committee shall submit a report of its findings, including groundwater test results, and recommendations, including any proposed legislation, to the legislature.”

SECTION 3. (a) All rights, powers, functions, and duties of the task force to study fuel tank leaks initially created pursuant to senate concurrent resolution no. 73, H.D. 1, regular session of 2014, and expanded by senate concurrent resolution no. 57, H.D. 1, regular session of 2015, are transferred to the fuel tank advisory committee established pursuant to this Act.

(b) All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the task force to study fuel tank leaks relating to the functions transferred to the fuel tank advisory committee established pursuant to this Act shall be transferred with the functions to which they relate.

SECTION 4. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)

**ACT 245**

H.B. NO. 1527

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that tax credits, exclusions, and deductions require periodic review to determine their tax expenditures, benefits, and continued merit and necessity. The legislature further finds that tax expenditures from the credits, exclusions, and deductions reduce revenues to the State. This requires ordinary taxpayers who do not benefit from the credits, exclusions, or deductions to compensate for the reduced revenues. Alternatively, funding for important state programs must be curtailed. The legislature further finds that good tax policy requires the equal treatment of similarly-situated taxpayers for the sake of equity and efficiency. When certain taxpayers receive special benefits to the detriment of others, it may generate resentment that leads to the loss of the general public’s confidence in fair treatment by the state government.

However, the legislature also believes that certain tax credits, exclusions, and deductions are worthy of continuation for equity, efficiency, and economic and social policy. The legislature finds that independent review by the state auditor would help the legislature to identify and affirm the credits, exclusions, and deductions that represent good public policy.

Accordingly, the purpose of this Act is to require the state auditor to periodically review certain tax credits, exclusions, and deductions for the income tax under chapter 235, Hawaii Revised Statutes, and the financial institutions tax under chapter 241, Hawaii Revised Statutes. The legislature finds that this Act is necessary to promote tax equity and efficiency, adequacy of state revenues, public transparency, and confidence in a fair state government.

SECTION 2. Chapter 23, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . REVIEW OF TAX CREDITS, EXCLUSIONS, AND DEDUCTIONS**

**§23-A Review of certain credits, exclusions, and deductions under the income tax and financial institutions tax.** (a) The auditor shall conduct a review of the tax credits, exclusions, and deductions listed in sections 23-B to 23-F.

- (b) In the review of a credit, exclusion, or deduction, the auditor shall:
- (1) Determine the amount of tax expenditure for the credit, exclusion, or deduction for each of the previous three fiscal years;
  - (2) Estimate the amount of tax expenditure for the credit, exclusion, or deduction for the current fiscal year and the next two fiscal years;
  - (3) Determine whether the credit, exclusion, or deduction has achieved and continues to achieve the purpose for which it was enacted by the legislature;
  - (4) Determine whether the credit, exclusion, or deduction is necessary to promote or preserve tax equity or efficiency;
  - (5) If the credit, exclusion, or deduction was enacted because of its purported economic or employment benefit to the State:
    - (A) Determine whether a benefit has resulted, and if so, quantify to the extent possible the estimated benefit directly attributable to the credit, exclusion, or deduction; and
    - (B) Comment on whether the benefit, if any, outweighs the cost of the credit, exclusion, or deduction; and
  - (6) Estimate the annual cost of the credit, exclusion, or deduction per low-income resident of the State. For purposes of this paragraph, a “low-income resident of the State” means an individual who is a resident of the State and:
    - (A) Is the only member of a family of one and has an income of not more than eighty per cent of the area median income for a family of one; or
    - (B) Is part of a family with an income of not more than eighty per cent of the area median income for a family of the same size.
- The cost shall be estimated by dividing the annual tax expenditure for the credit, exclusion, or deduction for each fiscal year under review by the number of low-income residents of the State in the fiscal year. The estimate determined pursuant to this paragraph is intended to display the effect on low-income residents of the State if they directly receive, either through tax reduction or negative tax, the dollars saved by elimination of the credit, exclusion, or deduction.

(c) Based on the review, the auditor shall recommend whether the credit, exclusion, or deduction should be retained without modification, amended, or repealed.

The auditor may recommend that a credit, exclusion, or deduction be removed from review under sections 23-B to 23-F.

**§23-B Review for 2019 and every fifth year thereafter.** (a) The credits under the income tax and financial institutions tax listed in subsection (c) shall be reviewed in 2019 and every fifth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor at least twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:

- (1) Sections 235-12.5 and 241-4.6—Credit for renewable energy technology system installed and placed in service in the State. For the

purpose of section 23-A(b)(5), this credit shall be deemed to have been enacted for an economic benefit; and

- (2) Section 235-17—Credit for qualified production costs incurred for a qualified motion picture, digital media, or film production.

**§23-C Review for 2020 and every fifth year thereafter.** (a) The credits, exclusions, and deductions under the income tax and financial institutions tax listed in subsection (c) shall be reviewed in 2020 and every fifth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor at least twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:

- (1) Section 235-7.3—Exclusion of royalties and other income derived from a patent, copyright, or trade secret of a qualified high technology business;
- (2) Section 235-9.5—Exclusion for income and proceeds from stock options or stocks of a qualified high technology business or a holding company for a qualified high technology business;
- (3) Sections 235-17.5 and 241-4.4—Credit for capital infrastructure costs;
- (4) Sections 235-110.7 and 241-4.5—Credit for capital goods used by a trade or business;
- (5) Section 235-110.91—Credit for research activity;
- (6) Section 235-110.3—Credit for ethanol facility; and
- (7) Section 241-3.5—Deduction for adjusted eligible net income of an international banking facility.

**§23-D Review for 2021 and every fifth year thereafter.** (a) The credits and exclusions under the income tax listed in subsection (c) shall be reviewed in 2021 and every fifth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor at least twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:

- (1) Section 235-4.5(a)—Exclusion of intangible income earned by a trust sited in this State;
- (2) Section 235-4.5(b)—Exclusion of intangible income of a foreign corporation owned by a trust sited in this State;
- (3) Section 235-4.5(c)—Credit to a resident beneficiary of a trust for income taxes paid by the trust to another state;
- (4) Sections 235-55 and 235-129—Credit for income taxes paid by a resident taxpayer to another jurisdiction;
- (5) Section 235-71(c)—Credit for a regulated investment company shareholder for the capital gains tax paid by the company;
- (6) Section 235-110.6—Credit for fuel taxes paid by a commercial fisher;
- (7) Section 235-110.93—Credit for important agricultural land qualified agricultural cost;
- (8) Section 235-129(b)—Credit to S corporation shareholder for pro rata share of the tax credit earned by the S corporation in this State; and
- (9) Section 209E-10—Credit for a qualified business in an enterprise zone; provided that the review of this credit pursuant to this part shall be limited in scope to income tax credits.

**§23-E Review for 2022 and every fifth year thereafter.** (a) The credits and deductions under the income tax and financial institutions tax listed in subsection (c) shall be reviewed in 2022 and every fifth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor at least twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:

- (1) Section 235-5.5—Deduction for individual housing account deposit;
- (2) Section 235-7(f)—Deduction of property loss due to a natural disaster;
- (3) Section 235-16.5—Credit for cesspool upgrade, conversion, or connection;
- (4) Section 235-19—Deduction for maintenance of an exceptional tree;
- (5) Section 235-55.91—Credit for the employment of a vocational rehabilitation referral;
- (6) Section 235-110.2—Credit for in-kind services contribution for public school repair and maintenance; and
- (7) Sections 235-110.8 and 241-4.7—Credit for ownership of a qualified low-income housing building.

**§23-F Review for 2023 and every fifth year thereafter.** (a) The credits under the income tax listed in subsection (c) shall be reviewed in 2023 and every fifth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor at least twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:

- (1) Section 235-15—Credit for purchase of child passenger restraint system;
- (2) Section 235-55.6—Credit for employment-related expenses for household and dependent care services;
- (3) Section 235-55.7—Credit for a low-income household renter; and
- (4) Section 235-55.85—Credit for food and excise tax.”

**SECTION 3.** In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

**SECTION 4.** This Act shall take effect on July 1, 2018.

(Approved July 12, 2016.)

**ACT 246**

H.B. NO. 2008

A Bill for an Act Relating to Public Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§76- Temporary employment in state positions.** (a) No department or agency of the State shall temporarily employ the same person in the same position that is wholly funded by general funds for more than two terms of eighty-

nine days; provided that with the approval of the governor, a department or agency of the State may temporarily employ the same person in the same position for eight terms of eighty-nine days within a consecutive twenty-four-month period.

(b) This section shall not apply to periods of temporary employment when a person has been appointed to a vacant position arising as a result of:

- (1) A workers' compensation claim;
- (2) Medical leave;
- (3) An on-going investigation;
- (4) A shortage category;
- (5) A working condition differential;
- (6) A remote geographical location;
- (7) A seasonal demand for employees;
- (8) A leave of absence taken by an incumbent who has return rights;
- (9) A need to fill a department of education position for the delivery of special education services; or
- (10) A position pending reorganization.

(c) This section shall not apply to the counties."

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 247**

H.B. NO. 2156

A Bill for an Act Relating to Campaign Finance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-381, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Campaign funds may be used by a candidate, treasurer, or candidate committee:

- (1) For any purpose directly related:
  - (A) In the case of the candidate, to the candidate's own campaign; or
  - (B) In the case of a candidate committee or treasurer of a candidate committee, to the campaign of the candidate, question, or issue with which they are directly associated;
- (2) To purchase or lease consumer goods, vehicles, equipment, and services that provide a mixed benefit to the candidate. The candidate, however, shall reimburse the candidate's candidate committee for the candidate's personal use of these items unless the personal use is de minimis;
- (3) To make donations to any community service, educational, youth, recreational, charitable, scientific, or literary organization; provided that in any election period, the total amount of all donations shall be no more than twice the maximum amount that one person may

- contribute to that candidate pursuant to section 11-357; provided further that no contributions shall be made from the date the candidate files nomination papers to the date of the general election;
- (4) To make donations to any public school or public library; provided that in any election period, the total amount of all contributions shall be no more than twice the maximum amount that one person may contribute to that candidate pursuant to section 11-357; provided further that any donation under this paragraph shall not be aggregated with or imputed toward any limitation on donations pursuant to paragraph (3);
  - (5) To award scholarships to full-time students attending an institution of higher education or a vocational education school in a program leading to a degree, certificate, or other recognized educational credential; provided that in any election period, the total amount of all scholarships awarded shall be no more than twice the maximum amount that one person may contribute to that candidate pursuant to section 11-357; provided further that no awards shall be made from the filing deadline for nomination papers to the date of the general election;
  - (6) To purchase not more than two tickets for each event held by another candidate or committee, whether or not the event constitutes a fundraiser as defined in section 11-342;
  - (7) To make contributions to the candidate's party so long as the contributions are not earmarked for another candidate; or
  - (8) To pay for ordinary and necessary expenses incurred in connection with the candidate's duties as a holder of an office~~[-]~~, including expenses incurred for memberships in civic or community groups."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon approval.

(Approved July 12, 2016.)

## ACT 248

H.B. NO. 2030

A Bill for an Act Relating to Pollution.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 342D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§342D- Treated or raw sewage; prohibition.** (a) Notwithstanding any other law to the contrary, no person, including any public body, shall discharge any treated or raw sewage into state waters after December 31, 2026; provided that this section shall not apply to a sewage treatment plant that:

- (1) Utilizes sewage to produce clean energy pursuant to section 196-10.5; and
  - (2) Is in compliance with this chapter, rules adopted pursuant to this chapter, or a permit or variance issued by the director.
- (b) Nothing in this section shall be construed to:

- (1) Prohibit the use of reclaimed or recycled water for a beneficial purpose as provided by law; or
- (2) Allow the discharge of treated or raw sewage into state waters in violation of any federal statute, rule, or regulation.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 249**

H.B. NO. 2681

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds for Wailuku Reservoir #6.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to Act 147, Session Laws of Hawaii 2012, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$800,000 in one or more series, for the purpose of providing financing to Spencer Homes, Inc., a Hawaii corporation, to properly breach, modify, or provide improvements to Wailuku Reservoir No. 6, subsequent to all applicable permit requirements. The legislature hereby finds and determines that Wailuku reservoir number 6 constitutes a project as defined in Act 147, Session Laws of Hawaii 2012, and the financing thereof is assistance to dam and reservoir owners.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to Act 147, Session Laws of Hawaii 2012, relating to the power to issue special purpose revenue bonds to assist dam and reservoir owners.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2021, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 of this Act, and to refund special purpose revenue bonds authorized by this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2021.

SECTION 6. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)

## ACT 250

H.B. NO. 2680

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds for Kaloko Reservoir.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to Act 147, Session Laws of Hawaii 2012, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$10,000,000 in one or more series, for the purpose of providing financing to the Mary N. Lucas Estate for the Kaloko reservoir for planning, permitting, designing, constructing, and equipping the reservoir's dam, upgrading the infrastructure associated with the dam, and acquiring the neighboring properties and appurtenant water system rights and assets necessary to restore and operate the appurtenant water system. The legislature hereby finds and determines that the Kaloko reservoir and its dam constitute a project as defined in Act 147, Session Laws of Hawaii 2012, and the financing thereof is assistance to dam and reservoir owners.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to Act 147, Session Laws of Hawaii 2012, relating to the power to issue special purpose revenue bonds to assist dam and reservoir owners.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2021, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 of this Act, and to refund special purpose revenue bonds authorized by this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2021.

SECTION 6. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)



A Bill for an Act Relating to Money Transmitters.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 489D-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This chapter shall not apply to:

- (1) The United States or any department, agency, or instrumentality thereof;
- (2) The United States Postal Service;
- (3) The State or any political subdivisions thereof; and
- (4) The electronic transfer of government benefits for any federal, state, or county governmental agency as defined in [Federal Reserve Board] Consumer Financial Protection Bureau Regulation E, by a contractor for, and on behalf of the United States or any department, agency, or instrumentality thereof, or any state or any political subdivisions thereof.”

SECTION 2. Section 489D-15, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) A person or group of persons requesting approval of a proposed change of control of a licensee shall submit to the commissioner an application requesting approval of a proposed change of control of the licensee, accompanied by a nonrefundable application fee of \$2,500.

(b) After review of a request for approval under subsection (a), the commissioner may require the licensee or person or group of persons requesting approval of a proposed change of control of the licensee, or both, to provide additional information concerning the persons who are to assume control of the licensee. The additional information shall be limited to similar information required of the licensee or persons in control of the licensee as part of its original license or renewal application under sections 489D-9 and 489D-12 ~~[and].~~ The information shall include the history of the [applicant's] material litigation and criminal convictions of the persons who are to assume control of the licensee for the five-year period prior to the date of the application for change of control of the licensee[-], and authorizations necessary to conduct criminal history record checks of persons who are to assume control of the licensee accompanied by the appropriate payment of the applicable fee for each record check.”

SECTION 3. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Criminal history record checks may be conducted by:

- (1) The department of health or its designee on operators of adult foster homes for individuals with developmental disabilities or developmental disabilities domiciliary homes and their employees, as provided by section 321-15.2;
- (2) The department of health or its designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health or health care services as provided by section 321-171.5;
- (3) The department of health or its designee on all applicants for licensure or certification for, operators for, prospective employees, adult

- volunteers, and all adults, except adults in care, at health care facilities as defined in section 321-15.2;
- (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
  - (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
  - (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
  - (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
  - (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
  - (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
  - (10) The department of human services on applicants to operate child care facilities, prospective employees of the applicant, and new employees of the provider after registration or licensure as provided by section 346-154;
  - (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
  - (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in community care foster family homes as provided by section 321-15.2;
  - (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
  - (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
  - (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
  - (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
  - (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
  - (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;
  - (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;

- (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 321-15.2;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult protective and community services branch, as provided by section 346-97;
- (23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;
- (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
- (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
- (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
- (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
- (28) The department of commerce and consumer affairs on:
  - (A) Each principal of every non-corporate applicant for a money transmitter license; ~~and~~
  - (B) The executive officers, key shareholders, and managers in charge of a money transmitter's activities of every corporate applicant for a money transmitter license~~]; and~~
  - (C) The persons who are to assume control of a money transmitter licensee in connection with an application requesting approval of a proposed change in control of licensee, as provided by sections 489D-9 and 489D-15;
- (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
- (30) The Hawaii health systems corporation on:
  - (A) Employees;
  - (B) Applicants seeking employment;
  - (C) Current or prospective members of the corporation board or regional system board; or
  - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;

- (31) The department of commerce and consumer affairs on:
  - (A) An applicant for a mortgage loan originator license; and
  - (B) Each control person, executive officer, director, general partner, and manager of an applicant for a mortgage loan originator company license,
 as provided by chapter 454F;
- (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;
- (33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;
- (34) The counties on prospective employees for fire department positions which involve contact with children or vulnerable adults;
- (35) The counties on prospective employees for emergency medical services positions which involve contact with children or vulnerable adults;
- (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable citizens during emergencies or crises;
- (37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;
- (38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;
- (39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information;
- (40) The department of commerce and consumer affairs on applicants for real estate appraiser licensure or certification as provided by chapter 466K;
- (41) The department of health or its designee on all license applicants, licensees, employees, contractors, and prospective employees of medical marijuana dispensaries, and individuals permitted to enter and remain in medical marijuana dispensary facilities as provided under sections 329D-15(a)(4) and 329D-16(a)(3); and
- (42) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 12, 2016.)

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds for Ukumehame Reservoirs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to Act 147, Session Laws of Hawaii 2012, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$850,285 in one or more series, for the purpose of providing financing to West Maui Investors, LLC, a Hawaii limited liability company, for permits, testing, construction, and post-construction management for Ukumehame reservoir numbers two and three. The legislature hereby finds and determines that Ukumehame reservoir numbers two and three constitute a project as defined in Act 147, Session Laws of Hawaii 2012, and the financing thereof is assistance to dam and reservoir owners.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to Act 147, Session Laws of Hawaii 2012, relating to the power to issue special purpose revenue bonds to assist dam and reservoir owners.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2021, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 of this Act, and to refund special purpose revenue bonds authorized by this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2021.

SECTION 6. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)

A Bill for an Act Relating to Procurement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that in July 2015, the auditor released report no. 15-09: "Procurement Examination of the Department of Health: Lack of Procurement Controls Exposes Health Department to Waste and

Abuse,” conducted pursuant to section 23-4, Hawaii Revised Statutes, which requires the auditor to conduct postaudits of the transactions, accounts, programs, and performance of all departments, offices, and agencies of the State and its political subdivisions.

The legislature further finds that the auditor’s report highlighted an example of a contract award that was renegotiated at a price that was three hundred forty-five per cent higher than the original bid amount. The same contract was then amended three times, which resulted in a final contract amount that was six hundred eleven per cent higher than the original bid, as well as a reduction in the scope of work provided and a one-year extension of the performance deadline.

The legislature additionally finds that a reform of procurement law is necessary in light of the auditor’s report.

The purpose of this Act is to protect the public’s interest in the procurement process by:

- (1) Establishing a fair and reasonable pricing policy for every contract action;
- (2) Clarifying that contractors are required to submit cost or pricing data and a certification of the accuracy of the data for certain change orders and contract modifications, even if the original contract award did not require cost and pricing data; and
- (3) Clarifying that the state procurement administrator has the authority to perform periodic compliance reviews of the procurement practices and procedures of all governmental bodies, in collaboration with the state procurement board.

SECTION 2. Section 103D-205, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) For their respective jurisdictions and unless otherwise specifically provided in this chapter, each chief procurement officer shall serve as the central procurement officer for the officer’s respective jurisdiction and:

- (1) Procure or supervise the procurement of all goods, services, and construction;
- (2) Exercise general supervision and control over all inventories of goods;
- (3) Sell, trade, or otherwise dispose of surplus goods;
- (4) Establish and maintain programs for the inspection, testing, and acceptance of goods, services, and construction;
- (5) Coordinate with the administrator regarding procurement policies, opportunities for statewide innovation implementation, and concerns; ~~and~~
- (6) Report procurement contract data pursuant to requirements established by the administrator, in the form and manner prescribed by the state procurement office~~[-]; and~~
- (7) Assist and cooperate with the administrator regarding any compliance review by the administrator pursuant to section 103D-206.”

SECTION 3. Section 103D-206, Hawaii Revised Statutes, is amended to read as follows:

**“§103D-206 Additional duties of the administrator of the procurement office.** In addition to the duties referred to in section 103D-205, the administrator shall:

- (1) Perform periodic review of the procurement practices and procedures of all governmental bodies~~;~~, in collaboration with the state procurement policy board, for compliance with the procurement code;
- (2) Assist, advise, and guide governmental bodies in matters relating to procurement;
- (3) Determine corrective actions; provided that if a procurement officer under the jurisdiction of the administrator of the state procurement office or a chief procurement officer of any of the other state entities under section 103D-203, fails to comply with any determination rendered by the administrator within thirty days from the date of the issuance of the determination, or longer if permitted by the administrator upon request by the procurement officer or a chief procurement officer, the procurement officer or chief procurement officer shall be subject to an administrative fine under section 103D-106, for every day of noncompliance;
- (4) Develop and administer a statewide procurement orientation and training program;
- (5) Develop, distribute, and maintain a procurement manual for all state procurement officials; and
- (6) Develop, distribute, and maintain a procurement guide for vendors wishing to do business with the State and its counties.”

SECTION 4. Section 103D-312, Hawaii Revised Statutes, is amended to read as follows:

**“§103D-312 ~~[Cost]~~ Fair and reasonable pricing policy; cost or pricing data.** (a) A procurement officer shall purchase goods, services, and construction from responsible sources at fair and reasonable prices. A procurement officer shall make a written determination whether a price is fair and reasonable for each contracting action, including change orders and contract modifications that adjust prices. In establishing whether a price is fair and reasonable, the procurement officer shall obtain:

- (1) Certified cost or pricing data for every contract to which subsection (c) applies; and
- (2) Other data as necessary to perform a cost or price analysis of the data and determine a fair and reasonable price, regardless of whether subsection (c) applies to the contract.

(b) The policy board may adopt rules, pursuant to chapter 91, to establish an order of preference in the type of data required under subsection (a)(2).

~~[(a)]~~ (c) A contractor, except as provided in subsection ~~[(e);]~~ (e), shall submit cost or pricing data and shall certify that, to the best of the contractor’s knowledge and belief, the cost or pricing data submitted is accurate, complete, and current as of a mutually determined specified date ~~[prior to]~~ before the date of:

- (1) The pricing of any contract awarded by competitive sealed proposals or pursuant to the sole source procurement authority, where the total contract amount is expected to exceed an amount established by rules adopted by the policy board; or
- (2) The pricing of any change order or contract modification that is expected to exceed an amount established by rules adopted by the policy board. The requirement of this paragraph shall apply regardless of whether the original contract award did not require certified cost and pricing data.

~~[(b)]~~ (d) Any contract, change order, or contract modification under which a certificate is required shall contain a provision that the price to the State, including profit or fee, shall be adjusted to exclude any significant sums by which the State finds that the price was increased because the contractor furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between the parties.

~~[(e)]~~ (e) The requirements of this section, except for the requirements of paragraph (c)(2), shall not apply to [contracts:] original contract awards:

- (1) Where the original contract price is based on adequate price competition;
- (2) Where the original contract price is based on established catalog prices or market prices;
- (3) Where the original contract prices are set by law or rule; or
- (4) Where it is determined in writing in accordance with rules adopted by the policy board that the requirements of this section may be waived, and the reasons for the waiver are stated in writing~~[-];~~ provided that the requirements for price and costing data required under subsection (a)(2) shall not be waived without the approval of the chief procurement officer; provided further that the chief procurement officer shall not delegate this authority."

SECTION 5. Section 103D-318, Hawaii Revised Statutes, is amended to read as follows:

~~“[§103D-318]~~ **Finality of determinations.** The determinations required by sections 103D-302(g), 103D-303(a), 103D-303(g), 103D-306, 103D-307, 103D-310, ~~[103D-312(e),]~~ 103D-312(e), 103D-313, and 103D-314 shall be final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.”

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)

## ACT 254

H.B. NO. 2059

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds for Kehalani Offsite Retention Basin.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to Act 147, Session Laws of Hawaii 2012, the department of budget and finance, with the approval of the governor, is authorized



to issue special purpose revenue bonds in a total amount not to exceed \$5,570,250 in one or more series, for the purpose of providing financing to RCFC Kehalani, LLC, a Delaware limited liability company, for consultant work, permits, and construction for Kehalani offsite retention basin improvement work. The legislature hereby finds and determines that Kehalani offsite retention basin constitutes a project as defined pursuant to Act 147, Session Laws of Hawaii 2012, and the financing thereof is assistance to dam and reservoir owners.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to Act 147, Session Laws of Hawaii 2012, relating to the power to issue special purpose revenue bonds to assist dam and reservoir owners.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2021, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 of this Act, and to refund special purpose revenue bonds authorized by this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2021.

SECTION 6. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)

**ACT 255**

H.B. NO. 1982

**A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Big Island Dairy, LLC.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that support for local agriculture continues to be in the public interest. Big Island Dairy LLC operates a dairy farm in Ookala, one of only two commercial dairies remaining in the State. The production of fresh, locally-grown milk offers Hawaii consumers a healthy choice for their diets. While Big Island Dairy LLC plays a vital role in Hawaii's agriculture and economy, the company faces increasing competition from mainland producers.

The legislature further finds that Big Island Dairy LLC's operation of its dairy farm in Ookala is an agricultural enterprise under part X, chapter 39A, Hawaii Revised Statutes, and may be assisted through the issuance of special purpose revenue bonds. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

The purpose of this Act is to authorize the issuance of special purpose revenue bonds to assist Big Island Dairy LLC with the operation of its dairy farm in Ookala.

SECTION 2. Pursuant to part X, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$10,000,000 in one or more series, for the purpose of assisting Big Island Dairy LLC, a Hawaii limited liability company, with the operation of its dairy farm in Ookala. The legislature hereby finds and determines that Big Island Dairy LLC's operation of its dairy farm in Ookala constitutes a project as defined in part X, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an agricultural enterprise.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part X, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist agricultural enterprises.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2021, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 and to refund special purpose revenue bonds authorized by this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2021.

SECTION 6. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)

## ACT 256

H.B. NO. 1736

A Bill for an Act Relating to the Kona International Airport.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 261-26, Hawaii Revised Statutes, is amended to read as follows:

**"§261-26 Ellison Onizuka Kona International Airport at Keahole.** The official name of the airport situated at ~~[Keahole-Kona,]~~ Keahole in Kona, Hawaii shall be the Ellison Onizuka Kona International Airport at Keahole."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on January 1, 2017.

(Approved July 12, 2016.)

A Bill for an Act Relating to the Endangered Species Recovery Committee.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 195D-25, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the department for administrative purposes only, the endangered species recovery committee, which shall serve as a consultant to the board and the department on matters relating to endangered, threatened, proposed, and candidate species. The committee shall consist of two field biologists with expertise in conservation biology, the chairperson of the board or the chairperson’s designee, the ecoregion director of the United States Fish and Wildlife Service or the director’s designee, the director of the United States Geological Survey, Biological Resources Division or the director’s designee, the [director] dean of the University of Hawaii [Environmental Center] at Manoa college of natural sciences or the [director’s] dean’s designee, and a person possessing a background in native Hawaiian traditional and customary practices, as evidenced by:

- (1) A college degree in a relevant field, such as Hawaiian studies, native Hawaiian law, native Hawaiian traditional and customary practices, or related subject area;
- (2) Work history that demonstrates an appropriate level of knowledge in native Hawaiian traditional and customary practices; or
- (3) Substantial experience in native Hawaiian traditional and customary practices.

Nongovernmental members shall be appointed by the governor pursuant to section 26-34. Nongovernmental members shall not serve for more than two consecutive terms. Nongovernmental members shall serve for four-year staggered terms, except that one of the members first appointed shall serve for two years.

Governmental members from the federal agencies are requested but not required to serve on the committee. The ability of the committee to carry out its functions and purposes shall not be affected by the vacancy of any position allotted to a federal governmental member.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 12, 2016.)

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that providing additional support to Hawaii’s agriculture industry could help to reduce reliance on agricultural imports and to foster job growth in the State. The legislature believes that reducing the burden on the emerging number of small farmers seeking costly, but

necessary, certifications and inspections will help to promote the production of locally-grown food.

The purpose of this Act is to establish a tax credit for farmers, ranchers, and producers seeking to obtain organic certification.

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§235- Organic foods production tax credit.** (a) There shall be allowed to each qualified taxpayer subject to the tax imposed under this chapter, an income tax credit that shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

(b) The amount of the tax credit shall be equal to the qualified expenses of the qualified taxpayer, up to a maximum of \$50,000.

(c) In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for qualified expenses incurred by the entity for the taxable year. The expenses upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined by rule.

(d) The total amount of tax credits allowed under this section shall not exceed \$2,000,000 for all qualified taxpayers in any taxable year; provided that any taxpayer who is not eligible to claim the credit in a taxable year due to the \$2,000,000 cap having been exceeded for that taxable year shall be eligible to claim the credit in the subsequent taxable year.

(e) Every qualified taxpayer, before March 31 of each year in which qualified expenses were incurred by the taxpayer in the previous taxable year, shall submit a written, certified statement to the chairperson of the board of agriculture identifying:

- (1) Qualified expenses incurred in the previous taxable year; and
  - (2) The amount of the tax credit claimed by the taxpayer pursuant to this section, if any, in the previous taxable year.
- (f) The department of agriculture shall:
- (1) Maintain records of the names and addresses of the qualified taxpayers claiming the credits under this section and the total amount of the qualified expenses upon which the tax credits are based;
  - (2) Verify the nature and amount of the qualified expenses;
  - (3) Total all qualified and cumulative expenses that the department certifies; and
  - (4) Certify the amount of the tax credit for each taxpayer for each taxable year and the cumulative amount of the tax credit.

Upon each determination made under this subsection, the department of agriculture shall issue a certificate to the taxpayer verifying information submitted to the department of agriculture, including amounts of qualified expenses, the credit amount certified for the taxpayer for each taxable year, and the cumulative amount of tax credits certified. The taxpayer shall file the certificate with the taxpayer's tax return with the department of taxation.

The board of agriculture may assess and collect a fee to offset the costs of certifying tax credit claims under this section.

- (g) The director of taxation:
  - (1) Shall prepare any forms that may be necessary to claim a tax credit under this section;
  - (2) May require the taxpayer to furnish reasonable information to ascertain the validity of the claim for the tax credit made under this section; and

(3) May adopt rules under chapter 91 necessary to effectuate the purposes of this section.

(h) If the tax credit under this section exceeds the taxpayer's net income tax liability, the excess of the credit over liability may be used as a credit against the taxpayer's net income tax liability in subsequent years until exhausted. All claims for the tax credit under this section, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(i) As used in this section:

"Net income tax liability" means income tax liability reduced by all other credits allowed under this chapter.

"Organic Foods Production Act" means the federal Organic Foods Production Act of 1990, as amended (7 United States Code section 6501 et seq.).

"Organic system plan" has the same meaning as provided in 7 Code of Federal Regulations section 205.2.

"Qualified expenses" means expenses incurred by a qualified taxpayer to produce organically produced agricultural products, including expenses incurred to obtain organic certification from the United States Department of Agriculture, pursuant to the Organic Foods Production Act. "Qualified expenses" include:

- (1) Application fees;
- (2) Inspection costs;
- (3) Fees related to equivalency agreement/arrangement requirements, travel/per diem for inspectors, user fees, sales assessments, and postage; and
- (4) Costs for any equipment, materials, or supplies necessary for organic certification or production of agricultural products, in accordance with the qualified taxpayer's organic system plan and the organic production and handling requirements of the National Organic Program, codified at 7 Code of Federal Regulations part 205, subpart C, including but not limited to certified organic seed, cover crops, or animal feed.

"Qualified expenses" shall not include any amount refunded or to be refunded to the taxpayer by the United States Department of Agriculture's organic certification cost-share program or any other similar financial assistance program.

"Qualified taxpayer" means a producer, handler, or handling operation, as those terms are defined in title 7 United States Code section 6502:

- (1) That sells agricultural products in adherence to the standards and requirements of the Organic Foods Production Act;
- (2) That has applied for organic certification, in accordance with the requirements of the Organic Foods Production Act; and
- (3) Whose gross income from the sale of organically produced agricultural products for the most recently reported fiscal year totals no more than \$500,000."

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2016; provided that this Act shall be repealed on December 31, 2021.

(Approved July 12, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 259**

H.B. NO. 1853

A Bill for an Act Relating to Special Purpose Revenue Bonds to Assist BioEnergy Hawaii, LLC.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to extend the authorization of special purpose revenue bonds under Act 89, Session Laws of Hawaii 2011, to BioEnergy Hawaii, LLC, for the purpose of establishing a cogeneration facility and related energy production facilities to June 30, 2021.

SECTION 2. Act 89, Session Laws of Hawaii 2011, is amended by amending sections 4 and 5 to read as follows:

“SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to ~~[June 30, 2016,]~~ June 30, 2021, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 and to refund special purpose revenue bonds authorized in this section regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on ~~[June 30, 2016,]~~ June 30, 2021.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on June 29, 2016.

(Approved July 12, 2016.)

**ACT 260**

S.B. NO. 2408

A Bill for an Act Relating to Partition of Heirs Property.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
UNIFORM PARTITION OF HEIRS PROPERTY ACT**

**§ -1 Short title.** This chapter may be cited as the Uniform Partition of Heirs Property Act.

**§ -2 Definitions. As used in this chapter:**

“Ascendant” means an individual who precedes another individual in lineage, in the direct line of ascent from the other individual.

“Collateral” means an individual who is related to another individual under the law of intestate succession of this State, but who is not the other individual’s ascendant or descendant.

“Descendant” means an individual who follows another individual in lineage, in the direct line of descent from the other individual.

“Determination of value” means an order of a court determining the fair market value of heirs property under section -7 or -11 or adopting the valuation of the property agreed to by all cotenants.

“Heirs property” means real property held in tenancy in common that satisfies all the following requirements as of the filing of an action for partition:

- (1) There is no agreement in a record binding all the cotenants that governs the partition of the property;
- (2) One or more of the cotenants acquired title from a relative, whether living or deceased; and
- (3) Any of the following applies:
  - (A) Twenty per cent or more of the interests are held by cotenants who are relatives;
  - (B) Twenty per cent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or
  - (C) Twenty per cent or more of the cotenants are relatives.

“Partition by sale” means a court-ordered sale of the entire heirs property, whether by auction, sealed bids, or open-market sale conducted under section -11.

“Partition in kind” means the division of heirs property into physically distinct and separately titled parcels.

“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“Relative” means an ascendant, descendant, or collateral or an individual otherwise related to another individual by blood, marriage, adoption, or law of this State other than this chapter.

**§ -3 Applicability; relation to other law.** (a) This chapter applies to actions for partition filed on or after January 1, 2017.

(b) In any action for partition of real property under chapter 668, the court shall determine whether the property is heirs property. If the court determines that the property is heirs property, the property shall be partitioned under this chapter, unless all the cotenants agree otherwise in a record.

(c) This chapter supplements chapter 668 and, if an action is governed by this chapter, supersedes provisions of chapter 668 that are inconsistent with this chapter.

§ -4 **Service; notice by posting.** (a) This chapter does not limit or affect the method by which service of a complaint in an action for partition may be made.

(b) If an order of service by publication of the summons for an action for partition of real property is granted and the court determines that the property may be heirs property, the plaintiff, not later than ten days after the court's determination, shall post, and maintain while the action is pending, a conspicuous sign on the property that is the subject of the action. The sign shall state that the action has commenced and identify the name and address of the court and the common designation by which the property is known. The court may require the plaintiff to publish on the sign the name of the plaintiff and the known defendants.

§ -5 **Commissioners.** If the court appoints commissioners pursuant to section 668-13, each commissioner, in addition to the requirements and disqualifications applicable to commissioners in section 668-13, shall be disinterested, impartial, and neither a party to nor a participant in the action.

§ -6 **Special master.** The court shall appoint a special master to fulfill the notice requirements pursuant to this chapter or that are not specifically assigned to any cotenant by this chapter. The costs of the services of the special master and the expenses of the notices shall be paid by the cotenants at the conclusion of the partition action; provided that the court may in its discretion order the payment of costs and expenses from the estate of the deceased, the proceeds of the partition by sale, the cotenants, or a combination thereof.

§ -7 **Determination of value.** (a) Except as otherwise provided in subsections (b) and (c), if the court determines that the property that is the subject of the action for partition is heirs property, the court shall determine the fair market value of the property by ordering an appraisal pursuant to subsection (d).

(b) If all cotenants have agreed to the value of the property or to another method of valuation, the court shall adopt that value or the value produced by the agreed method of valuation.

(c) If the court determines that the evidentiary value of an appraisal is outweighed by the cost of the appraisal, the court, after an evidentiary hearing, shall determine the fair market value of the property and the special master shall send notice to the parties of the value.

(d) If the court orders an appraisal, the court shall appoint a disinterested real estate appraiser licensed in this State to determine the fair market value of the property assuming sole ownership of the fee simple estate. On completion of the appraisal, the appraiser shall file a sworn or verified appraisal with the clerk of the court. The appraiser shall mail or deliver to the court a file-marked copy of the appraisal filed with the clerk of the court.

(e) If an appraisal is conducted pursuant to subsection (d), not later than ten days after the appraisal is filed, the special master shall send notice to each party with a known address, stating:

- (1) The appraised fair market value of the property as set forth in the appraisal that was filed with the clerk of the court;
- (2) That the appraisal is available at the office of the clerk of the court; and
- (3) That a party may object to the appraisal not later than thirty days after the notice is sent, stating the grounds for the objection.



(f) If an appraisal is filed with the court pursuant to subsection (d), the court shall conduct a hearing to determine the fair market value of the property not earlier than thirty days after a copy of the notice of appraisal is sent to each party under subsection (e), regardless of whether an objection to the appraisal is filed under subsection (e)(3). In addition to the court-ordered appraisal, the court may consider any other evidence of value that is offered by a party.

(g) Before considering the merits of the action for partition, the court shall determine the fair market value of the property and the special master shall send notice to the parties of the value.

**§ -8 Cotenant buyout.** (a) If any cotenant requested partition by sale, after the determination of value under section -7, the special master shall send notice to the parties that any cotenant except a cotenant that requested partition by sale may buy the interest of any cotenant that requested partition by sale.

(b) Not later than forty-five days after the notice is sent under subsection (a), any cotenant except a cotenant that requested partition by sale may give notice to the court that it elects to buy all the interests of the cotenants that requested partition by sale.

(c) The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined under section -6 multiplied by that cotenant's fractional ownership of the entire parcel.

(d) After expiration of the period in subsection (b), the following rules shall apply:

- (1) If only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the special master shall notify all the parties of that fact;
- (2) If more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy and the special master shall send notice to all the parties of that fact and of the price to be paid by each electing cotenant; and
- (3) If no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the special master shall send notice to all the parties of that fact and resolve the action for partition under section -9(a) and (b).

(e) If the special master sends notice to the parties under subsection (d)(1) or (2), the court shall set a date, not earlier than sixty days after the date the notice was sent, by which electing cotenants must pay their apportioned price into the court. After the deadline for payment set by the court, the following rules shall apply:

- (1) If all electing cotenants timely pay their apportioned price, the court shall issue an order reallocating all the interests of the cotenants and disburse the amounts held by the court to the persons entitled to them;
- (2) If no electing cotenant timely pays its apportioned price, the court shall resolve the action for partition under section -9(a) and (b), as if the interests of the cotenants that requested partition by sale were not purchased; and
- (3) If one or more but not all the electing cotenants fail to timely pay their apportioned price, the court, on motion, shall direct the spe-

cial master to give notice to the electing cotenants that paid their apportioned price of the interest remaining and the price for that interest. Unless otherwise ordered by the court, for any notice that the special master is required to give pursuant to this paragraph, the movant for notice to be given to electing cotenants pursuant to this paragraph shall deliver to the court a notice in blank to be completed by the special master with sufficient copies for service on the electing cotenants along with envelopes stamped with sufficient postage and addressed to each electing cotenant. The court may direct the movant to provide notice of the value by any other means.

(f) No later than twenty days after the special master gives the notice pursuant to subsection (e)(3), any cotenant that paid may elect to purchase the remaining interest by paying the entire price to the court. After the twenty-day period, the following rules shall apply:

- (1) If only one cotenant pays the entire price for the remaining interest, the court shall issue an order reallocating the remaining interest to that cotenant. The court shall promptly issue an order reallocating all the interests of all the cotenants and disburse the amounts held by the court to the persons entitled to them;
- (2) If no cotenant pays the entire price for the remaining interest, the court shall resolve the partition action under section -9(a) and (b), as if the interests of the cotenants that requested partition by sale were not purchased; and
- (3) If more than one cotenant pays the entire price for the remaining interest, the court shall reapportion the remaining interest among those paying cotenants, based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interest. The court shall promptly issue an order reallocating all the cotenants' interests, disburse the amounts held by the court to the persons entitled to them, and promptly refund any excess payment held by the court to the appropriate cotenant.

(g) No later than forty-five days after the special master sends notice to the parties pursuant to subsection (a), any cotenant entitled to buy an interest under this section may request the court to authorize the sale of the interests of cotenants named as defendants and served with the complaint but that did not appear in the action as part of the pending action.

(h) If the court receives a timely request under subsection (g), the court, after hearing, may deny the request or authorize the requested additional sale on such terms as the court determines are fair and reasonable, subject to the following limitations:

- (1) A sale authorized under this subsection may occur only after the purchase prices for all interests subject to sale under subsections (a) through (f) have been paid into the court and those interests have been reallocated among the cotenants as provided in those subsections; and
- (2) The purchase price for the interest of an absent cotenant is based on the court's determination of value under section -7.

(i) The cotenant requesting partition by sale shall be liable for reasonable court fees.

**§ -9 Partition alternatives.** (a) If all the interests of all cotenants that requested partition by sale are not purchased by other cotenants pursuant to section -8, or if after conclusion of the buyout under section -8, a cotenant

remains that has requested partition in kind, the court shall order partition in kind unless the court, after consideration of the factors listed in section -10, finds that partition in kind will result in great prejudice to the cotenants as a group. In considering whether to order partition in kind, the court shall approve a request by two or more parties to have their individual interests aggregated.

(b) If the court does not order partition in kind under subsection (a), the court shall order partition by sale pursuant to section -11 or, if no cotenant requested partition by sale, the court shall dismiss the action.

(c) If the court orders partition in kind pursuant to subsection (a), the court may require that one or more cotenants pay one or more other cotenants amounts so that the payments, taken together with the value of the in-kind distributions to the cotenants, will make the partition in kind just and proportionate in value to the fractional interests held.

(d) If the court orders partition in kind, the court shall allocate to the cotenants that are unknown, unlocatable, or are the subject of a default judgment, a part of the property representing the combined interests of these cotenants as determined by the court, and this part of the property shall remain undivided; provided that their interests were not bought out pursuant to section -8.

**§ -10 Considerations for partition in kind.** (a) In determining under section -9(a) whether partition in kind would result in great prejudice to the cotenants as a group, the court shall consider the following:

- (1) Whether the heirs property practicably may be divided among the cotenants;
- (2) Whether partition in kind would apportion the property in such a way that the aggregate fair market value of the parcels resulting from the division would be materially less than the value of the property if it were sold as a whole, taking into account the condition under which the court-ordered sale likely would occur;
- (3) Evidence of the collective duration of ownership or possession of the property by a cotenant and one or more predecessors in title or predecessors in possession to the cotenant who are or were relatives of that cotenant or each other;
- (4) A cotenant's sentimental attachment to the property, including, without limitation, any attachment arising because the property has ancestral or other unique or special value to the cotenant;
- (5) The lawful use being made of the property by a cotenant and the degree to which the cotenant would be harmed if the cotenant could not continue the same use of the property;
- (6) The degree to which the cotenants have contributed their pro rata share of the property taxes, insurance, and other expenses associated with maintaining ownership of the property or have contributed to the physical improvement, maintenance, or upkeep of the property; and
- (7) Any other relevant factor.

(b) The court shall not consider any one factor in subsection (a) to be dispositive without weighing the totality of all relevant factors and circumstances.

**§ -11 Open-market sale, sealed bids, or auction.** (a) If the court orders a sale of heirs property, the sale shall be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.

(b) If the court orders an open-market sale and the parties, not later than ten days after the entry of the order, agree on a real estate broker licensed

in this State to offer the property for sale, the court shall appoint that broker and establish a reasonable commission. If the parties do not agree on a broker, the court shall appoint a disinterested real estate broker licensed in this State to offer the property for sale and shall establish a reasonable commission. The broker shall offer the property for sale in a commercially reasonable manner at a price not lower than the determination of value and on the terms and conditions established by the court.

(c) If the broker appointed under subsection (b) obtains within a reasonable time an offer to purchase the property for at least the determination of value:

- (1) The broker shall comply with the reporting requirements set forth in section -12; and
- (2) The sale may be completed in accordance with state law other than this chapter.

(d) If the broker appointed under subsection (b) does not obtain within a reasonable time an offer to purchase the property for at least the determination of value, the court, after hearing, may:

- (1) Approve the highest outstanding offer, if any;
- (2) Redetermine the value of the property and order that the property continue to be offered for an additional time; or
- (3) Order that the property be sold by sealed bids or at an auction.

(e) If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale. If the court orders an auction, the auction shall be conducted pursuant to chapter 667 or 668, as applicable.

(f) If a purchaser is entitled to a share of the proceeds of the sale, the purchaser is entitled to a credit against the price in an amount equal to the purchaser's share of the proceeds.

**§ -12 Report of open-market sale.** (a) Unless required to do so within a shorter time by chapter 668, a broker appointed under section -11(b) to offer heirs property for open-market sale shall file a report not later than seven days after receiving an offer to purchase the property for at least the value determined under section -7 or -11.

(b) The report required by subsection (a) shall contain the following information:

- (1) A description of the property to be sold to each buyer;
- (2) The name of each buyer;
- (3) The proposed purchase price;
- (4) The terms and conditions of the proposed sale, including, without limitation, the terms of any owner financing;
- (5) The amounts to be paid to lienholders;
- (6) A statement of contractual or other arrangements or conditions of the broker's commission; and
- (7) Other material facts relevant to the sale.

**§ -13 Uniformity of application and construction.** In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact similar uniform legislation.

**§ -14 Relation to Electronic Signatures in Global and National Commerce Act.** This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, P.L. 106-229, title 15 United States Code chapter 96, but does not modify, limit, or supersede title 15 United

## ACT 261

States Code section 7001(c), or authorize electronic delivery of any of the notices described in title 15 United States Code section 7003(b).”

SECTION 2. Section 668-1, Hawaii Revised Statutes, is amended to read as follows:

**“§668-1 Actions for partition.** When two or more persons hold or are in possession of real property as joint tenants or as tenants in common, in which one or more of them have an estate in fee, or a life estate in possession, any one or more of such persons may bring an action in the circuit court of the circuit in which the property or some part thereof is situated, for a partition of the property, according to the respective rights of the parties interested therein, and for a sale of the same or a part thereof if it appears that a partition cannot be made without great prejudice to the owners. [The] Except as provided in chapter \_\_\_\_\_, the several circuit courts shall have power, in any action for partition, to proceed according to the usual practice of courts of equity in cases of partition, and according to this chapter in enlargement thereof.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on January 1, 2017.

(Approved July 12, 2016.)

## ACT 261

S.B. NO. 2547

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that tax exemptions, exclusions, and credits require periodic review to determine their tax expenditures, benefits, and continued merit and necessity. The legislature further finds that tax expenditures from the exemptions, exclusions, and credits reduce revenues to the State. This requires ordinary taxpayers who do not benefit from the exemptions, exclusions, and credits to compensate for the reduced revenues. Alternatively, funding for important state programs must be curtailed. The legislature further finds that good tax policy requires the equal treatment of similarly-situated taxpayers for the sake of equity and efficiency. When certain taxpayers receive special benefits to the detriment of others, it may generate resentment that leads to the loss of the general public's confidence in fair treatment by the state government.

However, the legislature also believes that certain tax exemptions, exclusions, and credits are worthy of continuation for equity, efficiency, and economic and social policy. The legislature finds that review by the state auditor would help the legislature to identify and affirm the exemptions, exclusions, and credits that represent good public policy.

Accordingly, the purpose of this Act is to require the state auditor to periodically review certain tax exemptions, exclusions, and credits under the general excise and use taxes, public service company tax, and insurance premium

tax. These taxes are generally imposed on gross income or a similar measure. The legislature finds that this Act is necessary to promote tax equity and efficiency, adequacy of state revenues, public transparency, and confidence in a fair state government.

SECTION 2. Chapter 23, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . REVIEW OF TAX EXEMPTIONS, EXCLUSIONS, AND CREDITS**

**§23-A Review of certain exemptions, exclusions, and credits under the general excise and use taxes, public service company tax, and insurance premium tax.** (a) The auditor shall conduct a review of the tax exemptions, exclusions, and credits listed in sections 23-B to 23-K.

(b) In the review of an exemption, exclusion, or credit, the auditor shall:

- (1) Determine the amount of tax expenditure for the exemption, exclusion, or credit for each of the previous three fiscal years;
- (2) Estimate the amount of tax expenditure for the exemption, exclusion, or credit for the current fiscal year and the next two fiscal years;
- (3) Determine whether the exemption, exclusion, or credit has achieved and continues to achieve the purpose for which it was enacted by the legislature;
- (4) Determine whether the exemption, exclusion, or credit is necessary to promote or preserve tax equity or efficiency;
- (5) If the exemption, exclusion, or credit was enacted because of its purported economic or employment benefit to the State:
  - (A) Determine whether a benefit has resulted, and if so, quantify to the extent possible the estimated benefit directly attributable to the exemption, exclusion, or credit; and
  - (B) Comment on whether the benefit, if any, outweighs the cost of the exemption, exclusion, or credit; and
- (6) Estimate the annual cost of the exemption, exclusion, or credit per low-income resident of the State. For purposes of this paragraph, a “low-income resident of the State” means an individual who is a resident of the State and:
  - (A) Is the only member of a family of one and has an income of not more than eighty per cent of the area median income for a family of one; or
  - (B) Is part of a family with an income of not more than eighty per cent of the area median income for a family of the same size.

The cost shall be estimated by dividing the annual tax expenditure for the exemption, exclusion, or credit for each fiscal year under review by the number of low-income residents of the State in the fiscal year. The estimate determined pursuant to this paragraph is intended to display the effect on low-income residents of the State if they directly receive, either through tax reduction or negative tax, the dollars saved by elimination of the exemption, exclusion, or credit.

(c) Based on the review, the auditor shall recommend whether the exemption, exclusion, or credit should be retained without modification, amended, or repealed.

The auditor may recommend that an exemption, exclusion, or credit be removed from review under sections 23-B through 23-K.

**§23-B Review for 2018 and every tenth year thereafter.** (a) The exemptions and exclusions under the general excise and use taxes listed in subsection (c) shall be reviewed in 2018 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:

(1) Section 237-3(b)—Gross receipts from the following:

(A) Sales of securities;

(B) Sales of commodity futures;

(C) Sales of evidences of indebtedness;

(D) Fee simple sales of improved or unimproved land;

(E) Dividends; and

(F) Sales or transfers of materials and supplies, interest on loans, and provision of services among members of an affiliated public service company group;

(2) Section 237-13(3)(B)—Gross income of contractors from subcontractors;

(3) Section 237-13(3)(C)—Reimbursements to federal cost-plus contractors;

(4) Section 237-13(6)(D)(i), (ii), (iii), and (iv)—Gross receipts of home service providers acting as service carriers;

(5) Section 237-24.3(11)—Amounts received from aircraft and aircraft engine rental or leasing;

(6) Section 237-24.9—Amounts received from aircraft servicing and maintenance and aircraft service and maintenance facility construction;

(7) Section 238-1, paragraph (6) of the definition of “use”—The value of aircraft leases or rental and acquired or imported aircrafts and aircraft engines; and

(8) Section 238-1, paragraph (8) of the definition of “use”—The value of material, parts, or tools for aircraft service and maintenance and aircraft service and maintenance facility construction.

**§23-C Review for 2019 and every tenth year thereafter.** (a) The exemptions, exclusions, and credits under the general excise tax listed in subsection (c) shall be reviewed in 2019 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:

(1) Section 237-16.5—Gross income of real property lessees from sublessees;

(2) Section 237-16.8—Value or gross income of nonprofit organizations from conventions, conferences, trade shows, and display spaces;

(3) Section 349-10—Proceeds earned from annual senior citizen's fairs;

(4) Section 237-23.5—Amounts received from common payments of related entities;

(5) Section 237-24(13)—Amounts received by blind, deaf, or totally disabled persons from their business;

- (6) Section 237-24(14)—Amounts received by independent cane farmers who are sugarcane producers;
- (7) Section 237-24(15)—Amounts received by foster parents;
- (8) Section 237-24(16)—Reimbursements to cooperative housing corporations for operating and maintenance expenses;
- (9) Section 237-24(17)—Amounts received by TRICARE managed care support contractors; and
- (10) Section 237-24(18)—Amounts received by patient-centered community care program contractors.

**§23-D Review for 2020 and every tenth year thereafter.** (a) The exemptions and exclusions under the general excise tax, public service company tax, or insurance premium tax listed in subsection (c) shall be reviewed in 2020 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:

- (1) Section 239-2, paragraph (5) of the definition of “gross income”—Gross income of home service providers of mobile telecommunications services;
- (2) Section 239-2, exclusions under the definition of “gross income”—Dividends paid by one member to another member of an affiliated public service company group or gross income from the sale or transfer of materials and supplies, interest on loans, and provision of services among members of an affiliated public service company group;
- (3) Section 237-3(b)—Gross receipts from the sale or transfer of materials and supplies, interest on loans, and provision of services among members of an affiliated public service company group;
- (4) Section 239-5.5—Gross income of utilities from monthly surcharges;
- (5) Section 239-5.6—Gross income of electric utility companies from cable surcharges;
- (6) Section 239-6.5—Tax credit for lifeline telephone service subsidies;
- (7) Section 269-172—Green infrastructure charges received by electric utilities;
- (8) Section 237-29.7—Gross income or gross proceeds received by insurance companies;
- (9) Section 431:7-207—Tax credit to facilitate regulatory oversight;
- (10) Section 432:1-403—Exemption for nonprofit medical indemnity or hospital service associations or societies specifically from the general excise tax, public service company tax, or insurance premium tax; and
- (11) Section 432:2-503—Exemption for fraternal benefit societies specifically from the general excise tax, public service company tax, or insurance premium tax.

**§23-E Review for 2021 and every tenth year thereafter.** (a) The exemptions or exclusions under the general excise and use taxes listed in subsection (c) shall be reviewed in 2021 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:



- (1) Section 237-24.3(1)—Amounts received from loading, transporting, and unloading agricultural commodities shipped interisland;
- (2) Section 237-24.3(3)(A)—Amounts received from cargo loading or unloading;
- (3) Section 237-24.3(3)(B)—Amounts received from tugboat and towage services;
- (4) Section 237-24.3(3)(C)—Amounts received from the transportation of pilots or government officials and other maritime-related services;
- (5) Section 238-1, paragraph (7) of the definition of “use”—The value of oceangoing vehicles for transportation from one point to another in the State;
- (6) Section 238-3(g)—The value of imported intoxicating liquor and cigarettes and tobacco products for sale to persons or common carriers in interstate commerce;
- (7) Section 238-3(h)—The value of vessels constructed under section 189-25, relating to commercial fishing vessel loans, prior to July 1, 1969; and
- (8) Section 237-28.1—Gross proceeds from shipbuilding and ship repair.

**§23-F Review for 2022 and every tenth year thereafter.** (a) The exemptions or exclusions under the general excise tax listed in subsection (c) shall be reviewed in 2022 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:

- (1) Section 237-24.3(4)—Amounts received by employment benefit plans and amounts received by nonprofit organizations or offices for the administration of employee benefit plans;
- (2) Section 237-24.3(5)—Amounts received from food coupons under the federal food stamp program or vouchers under the Special Supplemental Foods Program for Women, Infants and Children;
- (3) Section 237-24.3(6)—Amounts received from the sale of prescription drugs or prosthetic devices;
- (4) Section 237-24.3(8)—Amounts received as dues by unincorporated merchants associations for advertising or promotion;
- (5) Section 237-24.3(9)—Amounts received by labor organizations from real property leases;
- (6) Section 237-24.75(2)—Reimbursements to the Hawaii convention center operator from the Hawaii tourism authority;
- (7) Section 237-24.75(3)—Reimbursements to professional employer organizations from client companies for employee wages and fringe benefits; and
- (8) Section 209E-11—Amounts received by qualified businesses in enterprise zones.

**§23-G Review for 2023 and every tenth year thereafter.** (a) The exemptions or exclusions under the general excise and use taxes listed in subsection (c) shall be reviewed in 2023 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

- (c) This section shall apply to the following:
  - (1) Section 237-24.3(2)—Reimbursements to associations of owners of condominium property regimes or nonprofit homeowners or community associations for common expenses;
  - (2) Section 237-24.5—Amounts received by exchanges or exchange members;
  - (3) Section 237-25(a)(3)—Gross income received from tangible personal property sales to state-chartered credit unions;
  - (4) Section 237-24.8—Amounts received by financial institutions, trust companies, trust departments, or financial corporations acting as interbank brokers;
  - (5) Section 237-26—Gross proceeds of scientific contractors and subcontractors;
  - (6) Section 238-3(j)—The value of property or services exempted by section 237-26, relating to scientific contracts; and
  - (7) Section 237-27—Amounts received by petroleum product refiners from other refiners.

**§23-H Review for 2024 and every tenth year thereafter.** (a) The exemptions or exclusions under the general excise tax listed in subsection (c) shall be reviewed in 2024 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

- (c) This section shall apply to the following:
  - (1) Section 237-24.7(1)—Amounts received by hotel operators and hotel suboperators for employee wages and fringe benefits;
  - (2) Section 237-24.7(2)—Amounts received by a county transportation system operator under a contract with the county;
  - (3) Section 237-24.7(4)—Amounts received by orchard property operators for employee wages and fringe benefits;
  - (4) Section 237-24.7(6)—Amounts received from insurers for damage or loss of inventory of businesses located in a natural disaster area;
  - (5) Section 237-24.7(7)—Amounts received by community organizations, school booster clubs, and nonprofit organizations for precinct and other election-related activities;
  - (6) Section 237-24.7(8)—Interest received by persons domiciled outside the State from trust companies acting as payment agents or trustees on behalf of issuers or payees of interest-bearing instruments or obligations;
  - (7) Section 237-24.7(9)—Amounts received by management companies from related entities engaged in interstate or foreign common carrier telecommunications services for employee wages and fringe benefits; and
  - (8) Section 237-24.7(10)—Amounts received from high technology research and development grants.

**§23-I Review for 2025 and every tenth year thereafter.** (a) The exemptions, exclusions, or credits under the general excise and use taxes and insurance premium tax listed in subsection (c) shall be reviewed in 2025 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

- (c) This section shall apply to the following:
  - (1) Section 237-27.5—Gross proceeds from air pollution control facility construction, reconstruction, operation, use, maintenance, or furnishing;
  - (2) Section 238-3(k)—The value of air pollution control facilities;
  - (3) Section 237-27.6—Amounts received by solid waste processing, disposal, and electric generating facility operators under sale and leaseback transactions with political subdivisions that involve the facilities;
  - (4) Section 237-29—Gross income of qualified persons or firms or non-profits or limited distribution mortgagors for certified or approved low-income housing projects;
  - (5) Section 238-3(j)—The value of property, services, or contracting exempted by section 237-29, relating to certified or approved housing projects;
  - (6) Section 431:7-208—Credit for low-income housing;
  - (7) Section 46-15.1(a)—Gross income from county low-income housing projects; and
  - (8) Section 346-369—Compensation received by provider agencies for homeless services or homeless facility management.

**§23-J Review for 2026 and every tenth year thereafter.** (a) The exemptions or exclusions under the general excise and use taxes listed in subsection (c) shall be reviewed in 2026 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

- (c) This section shall apply to the following:
  - (1) Section 237-29.5—Value or gross proceeds from tangible personal property shipped out of State;
  - (2) Section 237-29.53—Value or gross income from contracting or services performed for use outside the State;
  - (3) Section 238-1, paragraph (9) of the definition of “use”—The value of services or contracting imported for resale, consumption, or use outside the State; and
  - (4) Section 237-29.55—Gross proceeds or gross income from the sale of tangible personal property imported into the State for subsequent resale.

**§23-K Review for 2027 and every tenth year thereafter.** (a) The exemptions or exclusions under the general excise tax listed in subsection (c) shall be reviewed in 2027 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

- (c) This section shall apply to the following:
  - (1) Section 237-23(a)(3)—Fraternal benefit societies, orders, or associations for the payment of benefits to members;
  - (2) Section 237-23(a)(4)—Corporations, associations, trusts, or societies:
    - (A) Organized and operated exclusively for religious, charitable, scientific, or educational purposes;
    - (B) Operating senior citizens housing facilities qualifying for loans under the United States Housing Act of 1959, as amended;

- (C) Operating legal service plans; or
- (D) Operating or managing homeless facilities or other programs for the homeless;
- (3) Section 237-23(a)(5)—Business leagues, chambers of commerce, boards of trade, civic leagues, agricultural and horticultural organizations, and organizations operated exclusively for the benefit of the community or promotion of social welfare, including legal service plans;
- (4) Section 237-23(a)(6)—Hospitals, infirmaries, and sanitarium;
- (5) Section 237-23(a)(7)—Tax-exempt potable water companies serving residential communities lacking access to public utility water services;
- (6) Section 237-23(a)(8)—Agricultural cooperative associations incorporated under state or federal law;
- (7) Section 237-23(a)(9)—Persons affected with Hansen's disease and kokuas with respect to business within the county of Kalawao;
- (8) Section 237-23(a)(10)—Corporations, companies, associations, or trusts organized for cemeteries; and
- (9) Section 237-23(a)(11)—Nonprofit shippers.”

SECTION 3. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 4. This Act shall take effect on July 1, 2017.

(Approved July 12, 2016.)

## ACT 262

S.B. NO. 2557

A Bill for an Act Relating to Concussions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that across the country, legal action is being pursued over the issue of concussion management in interscholastic sports and youth sports leagues. Class action lawsuits are highlighting the need for related baseline testing; student, coach, and parent education; and concussion injury data monitoring. To address some of these concerns, Act 197, Session Laws of Hawaii 2012, required the department of education and the Hawaii High School Athletic Association to develop a concussion educational program for high school students aged fourteen to eighteen. The intent of Act 197 was to provide a statewide concussion educational program to ensure that public and private high school students, school personnel, and parents are provided with consistent and up-to-date information on the management of symptoms and injuries related to a concussion.

The purpose of this Act is to expand the scope of the concussion educational program under Act 197 to include youth and incorporate additional program requirements.

This Act also makes appropriations to develop and implement the concussion monitoring and educational program and to administer concussion testing to high school student athletes.

SECTION 2. Act 197, Session Laws of Hawaii 2012, is amended as follows:

1. By amending section 2 to read:

"SECTION 2. As used in this Act, the following definitions apply:

"Coach" means a paid or volunteer ~~coach~~ individual working for, assisting, or managing a sports team for school athletics or a youth athletic activity.

"Concussion" means a pathophysiological process affecting the brain, caused by direct or indirect traumatic biomechanical forces.

"Licensed health care provider" means an advanced practice registered nurse, certified or registered athletic trainer, neuropsychologist, physician assistant, physician, ~~osteopathic physician, or physical therapist~~ trained in the management of sports concussions.

"School athletics" means athletic events sponsored by any public or private school from grade nine to grade twelve.

"Youth athletic activity" means an organized athletic activity where the majority of the participants are eleven years of age or older and under nineteen years of age, and are engaging in an organized athletic game or competition against another team, club, or other entity or in practice or preparation for an organized game or competition against another team, club, or other entity. The term does not include:

- (1) A college or university activity;
- (2) An activity that is entered into for instructional purposes only; or
- (3) An athletic activity that is incidental to a non-athletic program or a lesson."

2. By amending section 4 to read:

"SECTION 4. ~~[Educational guidelines for development of a high school concussion awareness program. There shall be an educational program developed for every public and private school that is a member of the Hawaii High School Athletic Association on how to develop a school's concussion awareness plan. Every program shall require:]~~ The department of kinesiology and rehabilitation science of the University of Hawaii, the department of education, and the Hawaii High School Athletic Association shall jointly develop a concussion monitoring and educational program for school athletics that requires:

- (1) Annual concussion awareness training for coaches, administrators, faculty, staff, and sports officials, including:
  - (A) The signs and symptoms of a concussion;
  - (B) The need to obtain ~~proper~~:
    - (i) Proper medical attention for a person suspected of having a concussion; and
    - (ii) Medical clearance from licensed health care providers trained in concussion management, before a person may engage in any type of physical activity, practice, game, or competition;
- (C) Information on the nature and risk of concussions, including the danger of continuing to play after sustaining a concussion and the proper method of allowing a ~~student~~ person who has sustained a concussion to return to activity; and
- (D) Information on the process of a concussed person's return to school, academic and cognitive issues associated with a concussion, and classroom adjustments that the person may require;

- (2) Annual concussion awareness education for [parents and students who participate in a school's athletic team or programs or both.] participants in school athletics or youth athletic activities, including the parents of minor or student participants. The [parents and students] individuals required to receive education pursuant to this paragraph shall sign a concussion information sheet that they have attended [and], received, and viewed this concussion awareness education;
- (3) Immediate removal from a game, practice, or other activity of any [student] participant who is suspected of having a concussion or exhibits signs, symptoms, or behaviors consistent with a concussion, such as loss of consciousness, headache, dizziness, confusion, or balance problems. The [student] concussed participant shall not return to the activity until cleared to do so by a licensed health care provider~~[-and] trained in concussion management~~;
- (4) [The] A concussed student to obtain written clearance from [a-licensed health care provider] an advanced practice nurse, neuropsychologist, physician assistant, physician, or osteopathic physician trained in concussion management prior to returning to academics and athletics, which:
  - (A) States that the student is capable of resuming participation in a particular sport;
  - (B) May require the student to follow a plan designed to aid the student to recover and resume participation in school and athletic activities that:
    - (i) Includes, as appropriate, periods of cognitive and physical rest while symptoms of a concussion persist; and
    - (ii) Reintroduces cognitive and physical demands on the student on a progressive basis to prevent the reemergence or worsening of symptoms of a concussion; and
  - (C) Requires that the student's return to physical activity be monitored by the school's [certified] State of Hawaii registered athletic trainer, if an athletic trainer is employed by the school~~[-]~~;
- (5) Cognitive testing of school athletics participants as determined by the department of kinesiology and rehabilitation science of the University of Hawaii, department of education, and Hawaii High School Athletic Association;
- (6) Continuous data collection and monitoring of concussions in school athletics, including neuropsychologist review of computerized neuropsychological tests;
- (7) The use of information and guidance from the Hawaii Concussion Awareness and Management Program; and
- (8) Organizations traveling from without the State to compete in school athletics and youth athletic activities in the State to comply with this section;

provided that this section shall not apply to college and professional teams."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$450,000 or so much thereof as may be necessary for fiscal year 2016-2017 to:

- (1) Develop and implement the concussion monitoring and educational program for school athletics, as required by this Act;
- (2) Develop and implement a concussion and awareness program for youth athletics; and

- (3) Administer concussion testing to high school student athletes, beginning on August 1, 2016.

The sum appropriated shall be expended by the department of kinesiology and rehabilitation science of the University of Hawaii for the purposes of this Act.

SECTION 4. The department of kinesiology and rehabilitation science of the University of Hawaii shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2017 regarding the progress in implementing this Act.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)

**ACT 263**

H.B. NO. 1370

A Bill for an Act Relating to Divorce.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to authorize and require the employees' retirement system to make direct payments to the spouse or former spouse of an employees' retirement system member or retirant when the spouse or former spouse has been awarded all or a portion of the member's or retirant's retirement benefits as part of a property division adjudicated, ordered, or decreed by a court in a domestic relations proceeding. The actuarial cost of the benefits paid by the employees' retirement system to the retirant and the retirant's beneficiaries, if any, and the retirant's spouse or former spouse shall not exceed the actuarial cost of the benefits that would be payable to the retirant and the retirant's beneficiaries, if any, in the absence of this Act. It is the intent of the legislature that the approach taken by this Act, for the allocation of the benefit when the award is made prior to the member's retirement, be based upon what is often referred to as a "separate interest approach." The legislature also intends that the approach taken by this Act, for the allocation of the benefit when the award is made after the member's retirement, be based upon what is often referred to as a "shared payment approach."

The legislature recognizes that the employees' retirement system is not subject to the Employee Retirement Income Security Act of 1974 and it is not the intent of the legislature to require the employees' retirement system to comply with the provisions of that act. It is, however, the legislature's intent that this Act shall comply with the requirements of section 414(p)(11) of the Internal Revenue Code of 1986, as amended, to the extent necessary to allow the distributions or payments made by the employees' retirement system pursuant to this Act to be treated as made pursuant to a qualified domestic relations order for federal income tax purposes.

SECTION 2. Chapter 88, part II, subpart C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§88- Distribution of property in a divorce action. (a) As used in this section:**

**“Alternate payee”** means a spouse or former spouse of a member or retirant who is recognized by a domestic relations order as having a right to receive all or a portion of the benefits payable by the system with respect to that member or retirant.

**“Benefits payable with respect to a member or retirant”** means any payment required to be made to a member or retirant.

**“Domestic relations order”** means a judgment, decree, or order, including approval of a property settlement agreement, that:

- (1) Relates to the provision of marital property rights to a spouse or former spouse of a member or retirant; and
- (2) Is made pursuant to a domestic relations law of this State or another state.

**“Hawaii domestic relations order”** means a domestic relations order that:

- (1) Creates or recognizes the right of an alternate payee, or assigns to an alternate payee, the right to receive all or a portion of the benefits payable with respect to a member or retirant under the system;
- (2) Directs the system to disburse benefits to the alternate payee; and
- (3) Meets the requirements of this section.

(b) A Hawaii domestic relations order shall clearly specify:

- (1) The name and last known mailing address, if any, of the member or retirant;
- (2) The name and mailing address of the alternate payee covered by the order;
- (3) The amount or percentage of the member or retirant’s benefits to be paid by the system to the alternate payee, or the manner in which the amount or percentage is to be determined;
- (4) The number of payments or period to which the order applies; and
- (5) That the order applies to the system.

(c) If, pursuant to a Hawaii domestic relations order, an alternate payee is receiving all or a portion of a retirant’s pension, annuity, or retirement allowance, the alternate payee shall be entitled to receive a post retirement allowance as provided by section 88-90.

(d) A Hawaii domestic relations order shall not:

- (1) Purport to require the designation by the member or retirant of a particular person as the recipient of benefits upon the death of the member or retirant;
- (2) Purport to require the selection of a particular benefit payment plan or option or to limit the benefit payment plans or options from which the member may select;
- (3) Require any action on the part of the system contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to an alternate payee;
- (4) Make the award to the alternate payee an interest that is contingent on any condition other than those conditions resulting in the liability of the system for payment under its plan provisions;
- (5) Purport to give to someone other than a member or retirant the right to designate a beneficiary or to choose any retirement plan or option available from the system;
- (6) Attach a lien to any part of amounts payable with respect to a member or retirant;
- (7) Award an alternate payee a portion of the benefits payable with respect to a member or retirant under the system and purport to



require the system to make a lump sum payment of the awarded portion of the benefits to the alternate payee that are not payable in a lump sum;

- (8) Purport to require the system, without action by the member, to terminate a member from membership or employment, to refund contributions, or to retire a member;
- (9) Provide any type or form of benefit, or any option, not otherwise provided by the system;
- (10) Provide increased benefits, determined on the basis of actuarial value; or
- (11) Require the system to provide benefits or refunds to an alternate payee that are required to be paid to another alternate payee pursuant to an earlier Hawaii domestic relations order.

(e) Upon receipt of a copy of the complaint for divorce, certified by the clerk of the court in which the complaint was filed, and a written request that identifies the member or retirant by name and social security number and states the date of the marriage, the system shall provide the spouse or former spouse of a member or retirant with the same information that would be provided to the member or retirant on the member's or retirant's benefits that is relevant to the spouse's or former spouse's interest in the member's or retirant's benefits.

(f) A person who wishes to have the system review a domestic relations order or a proposed domestic relations order to establish whether the order or proposed order meets the requirements for a Hawaii domestic relations order shall submit to the system a written request for review and a copy of the order or proposed order. If the order has been entered by a court, the copy of the order shall be certified by the clerk of the court that entered the order. The order or proposed order shall be reviewed as provided by this section.

The filing fee in effect at the time that an order or proposed order is submitted shall be paid before the order or proposed order is processed or reviewed. In addition, the system shall charge for legal and actuarial services as provided by subsection (s).

Before any legal or actuarial services are performed, the system shall notify the person who requested the review of the order or proposed order that the services will be needed as part of the review. The notification shall include an estimate of the extent of the services and the estimated costs relating to those services. The charges for legal and actuarial services shall be paid before the system may issue notification of determination on an order or notification whether or not a proposed order meets the requirements for a Hawaii domestic relations order.

If a domestic relations order is submitted for review after it has been entered by the court and is thereafter amended with the intention that it shall be a Hawaii domestic relations order, the member, retirant, or the alternate payee shall submit a certified copy of the amended order to the system. The system shall review any amended order that it receives according to the same rules applicable to all other orders.

(g) The system shall review an order or proposed order for compliance with the requirements imposed by this section. Upon completion of the review:

- (1) The system shall not issue a determination that a proposed order is or is not a Hawaii domestic relations order but shall notify the person who submitted the proposed order, in writing, and may also notify the member or alternate payee whether the proposed order meets the requirements for a Hawaii domestic relations order, identifying any provisions of this section that the proposed order does not meet; and

- (2) If the order has been entered by the court, the system shall notify the member or retirant and the alternate payee in writing of the determination that the order is or is not a Hawaii domestic relations order, identifying any provisions of this section that the order does not meet.

(h) During any period not exceeding eighteen months, beginning on the date on which the first payment would be required to be made to the alternate payee under the domestic relations order, in which a domestic relations order is under review to determine whether it is a Hawaii domestic relations order, or in which a determination that an order is not qualified is on appeal to the board or to a court, the system shall limit the member's or retirant's rights in the member's or retirant's benefits to the extent the system deems appropriate to protect the largest amount that would be payable to the proposed alternate payee under the system's interpretation of the domestic relations order. Any amounts not paid to the member or retirant during this eighteen-month period shall be separately accounted for. If the domestic relations order is determined to be a Hawaii domestic relations order before the end of the eighteen-month period, the system shall pay benefits to the member or retirant and the alternate payee in accordance with the Hawaii domestic relations order and the terms of the plan, including any benefits separately accounted for during the period between the date on which the first payment was to be made under the Hawaii domestic relations order and the date the determination is made. If the domestic relations order is finally determined not to be a Hawaii domestic relations order, or if the eighteen-month period expires without a determination that the domestic relations order is a Hawaii domestic relations order, none of the amounts separately accounted for shall be paid to the alternate payee, and the member or retirant shall be entitled to the member's or retirant's full benefits in accordance with the terms of this chapter, including any benefits that had been separately accounted for and withheld from the member or retirant. If the domestic relations order is determined to be a Hawaii domestic relations order after the end of the eighteen-month period, or if the system later receives another domestic relations order that is determined to be a Hawaii domestic relations order, the Hawaii domestic relations order shall apply prospectively only and shall not affect benefits already paid to the member or retirant.

(i) Subject to the limitations of applicable statutes and this section, if a domestic relations order is determined to be a Hawaii domestic relations order, the system shall pay benefits in accordance with the order at the time benefits become payable to, or in the case of contributions or hypothetical account balances, are withdrawn by, the member or retirant. Any determination that an order is a Hawaii domestic relations order is voidable or subject to modification if the system determines that the provisions of the order have been changed or that circumstances relevant to the determination have changed.

(j) If a member terminates membership in the system by withdrawal of contributions or hypothetical account balance, the system shall pay all or a portion of the amount withdrawn to any alternate payee as directed by a Hawaii domestic relations order. Payment to any alternate payee pursuant to this subsection shall be in a lump sum. If the former member later resumes membership in the system, the system shall pay to an alternate payee no portion of any benefits payable to the member or retirant that result from the resumption of membership, even if those benefits result in part from reinstatement of service credit initially credited during the marriage.

(k) In order to receive credit for all service represented by withdrawn or refunded contributions, a member, in reinstating service credit by repaying amounts previously withdrawn or refunded, shall repay the entire amount with-

drawn or refunded, regardless of whether a portion or all of the amount was paid to an alternate payee.

(l) When the system has not yet begun to make payment to an alternate payee under this section and is provided with proof of the death of the alternate payee, benefits payable with respect to the member or retirant shall be paid without regard to the Hawaii domestic relations order.

(m) When the system receives a certified copy of a domestic relations order prior to a member's retirement, and if the domestic relations order is determined to be a Hawaii domestic relations order, the system, except as provided in subsection (j), shall pay the alternate payee an amount that is the actuarial equivalent of the benefit that is awarded to the alternate payee in the form of an annuity payable in equal monthly installments for the life of the alternate payee.

Payment under this subsection shall be determined as follows:

- (1) As of the date payment to the alternate payee is scheduled to begin, the system shall determine the single life annuity value of the retirement benefit payable to the member;
- (2) If the portion of the benefit awarded to the alternate payee by the order is not clearly stated as a percentage of the member's maximum retirement allowance, the system shall determine the percentage of the member's maximum retirement allowance that is the equivalent to the benefit awarded to the alternate payee;
- (3) The single life annuity value determined by the system shall be multiplied by the percentage of the member's maximum retirement allowance awarded to the alternate payee. The result of this calculation shall be actuarially converted to a single life annuity payable to the alternate payee for the lifetime of the alternate payee;
- (4) The benefit payable to the member shall be reduced by an amount actuarially equivalent to the value of the benefit payable to the alternate payee; payment by the system of the alternate payee's interest as provided by this section shall have no effect on the right of a member to name a beneficiary or the right of a member to choose an optional method of payment upon retirement; and
- (5) Payment of the alternate payee's interest under this subsection shall be effective as of the same date that benefit payments are effective for the member.

(n) When the system receives a certified copy of a domestic relations order subsequent to the member's retirement, and if the domestic relations order is determined to be a Hawaii domestic relations order, the interest awarded to the alternate payee by the Hawaii domestic relations order shall be paid as a portion of the retirement benefit the retirant is receiving as follows:

- (1) If the alternate payee is already a named beneficiary under any option elected by the retirant at retirement, the benefit to which the retirant is entitled, without regard to the Hawaii domestic relations order, shall be apportioned between the retirant and the alternate payee according to the terms of the Hawaii domestic relations order. Upon the death of the retirant or the alternate payee, the benefit amount to be paid to the survivor shall be the amount required under the option elected by the retirant at retirement, as though no Hawaii domestic relations order had existed; or
- (2) If the alternate payee is not a named beneficiary under the option elected by the retirant at retirement, the benefit to which the retirant is entitled without regard to the Hawaii domestic relations order, shall be apportioned between the retirant and the alternate payee according to the terms of the Hawaii domestic relations order. If the

retirant predeceases the alternate payee, payments to the alternate payee shall cease and payments to the retirant's named beneficiary or beneficiaries shall be made as required under the option elected by the retirant at retirement, as though no Hawaii domestic relations order had existed. If the alternate payee predeceases the retirant, the benefit then being paid to the retirant shall be increased by the amount of the benefit that was being paid to the alternate payee at time of death.

Payment according to the terms of the Hawaii domestic relations order under this subsection shall commence as of the first day of the month following the date upon which the order is determined to be qualified, unless the parties jointly direct that payment shall commence at a later date.

(o) If a retirant returns to employment requiring active membership in the system:

- (1) Payments to an alternate payee pursuant to a Hawaii domestic relations order shall not be suspended; and
- (2) The system shall pay to an alternate payee no portion of any benefits payable to the retirant that result from the resumption of membership.

(p) For the purpose of calculating earnings limitations for retirants who have been restored to service, the retirant's maximum retirement allowance shall be considered to be the amount that would have been paid if there had not been any Hawaii domestic relations order applicable to the retirant.

(q) A court does not have jurisdiction over the system with respect to a divorce or other domestic relations action in which an alternate payee's right to receive all or a portion of the benefits payable to a member or retirant is created or established. A determination by the system that a domestic relations order is not a Hawaii domestic relations order shall be subject to review as provided in chapter 91 and the system's rules relating to contested cases. The system shall not be made party to any other judicial proceedings except as provided in this subsection. A party to any action who attempts to make the system a party to the action contrary to this subsection shall be liable to the system for the system's costs and attorney's fees in the action, including attorneys' fee and costs for obtaining a dismissal.

(r) If a member or retirant, or the beneficiary or estate of either, receives the amount of any distribution that should have been paid by the system to the spouse or former spouse of the member or retirant, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the person to whom the amount should have been paid. If a spouse or former spouse of a member or retirant, or the estate, heirs, or legatees of the spouse or former spouse receive any amount of a distribution that should have been paid to a member or retirant, or the estate, heirs, or legatees of either, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the member or retirant or other person to whom the amount should have been paid. If a member, retirant, or the beneficiary, estate, heirs, or legatees of either, receives any amount that should not have been paid by the system, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the system. If an alternate payee or the estate, heirs, or legatee of the alternate payee, receives any amount that should not have been paid by the system, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the system.

(s) The board shall adopt rules in accordance with chapter 91, and adopt forms as it deems necessary to effectuate this section. The board, by mo-

tion at a duly noticed meeting of the board, may establish and revise from time to time:

- (1) A filing fee for processing and review of domestic relations orders and proposed domestic relations orders for the purposes of this section;
- (2) A schedule of charges for legal and actuarial services incurred by the system in the review and processing of domestic relations orders and proposed Hawaii domestic relations orders for the purposes of this section; and
- (3) A required form or forms for Hawaii domestic relations orders.”

SECTION 3. Section 88-91, Hawaii Revised Statutes, is amended to read as follows:

**“§88-91 Exemption from taxation and execution.** The right of a person to a pension, an annuity or a retirement allowance, to the return of contributions, the pension, annuity or retirement allowance itself, any optional benefit or death benefit, any other right accrued or accruing to any person under this part and the moneys in the various funds created under this part are exempted from any tax of the State and, except as provided in [section] sections 88-92 [provided,] and 88-, shall not be subject to execution, garnishment or any other process and shall be unassignable except as in this part specifically provided.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2018.

(Approved July 12, 2016.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

# PROPOSED CONSTITUTIONAL AMENDMENT

## S.B. NO. 2554

A Bill for an Act Proposing an Amendment to Article VII, Section 6, of the Hawaii Constitution, Relating to the Disposition of Excess Revenues.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to propose an amendment to article VII, section 6, of the Hawaii Constitution to amend the requirement for excess general fund revenues to be returned to the taxpayers of the State or deposited into a reserve fund.

The proposed amendment provides additional alternatives for the disposition of excess general fund revenues by allowing for the appropriation of general funds to pre-pay either:

- (1) General obligation bond debt service; or
- (2) Pension or other post-employment benefit liabilities.

These alternatives will enable the legislature to make general fund appropriations for purposes that result in long-term savings to the taxpayer. The pre-payment of long-term debt or unfunded liabilities would represent the trade-off of immediate fulfillment in using excess cash for the long-term benefit of less fixed cost for future generations. Less fixed cost would confer more flexibility with respect to state revenue expenditure decisions in the future. The legislature believes that the use of the alternatives may promote the public interest and should be available for future legislatures.

It is the legislature's intent that the alternatives not be self-executing. The legislature intends that the alternatives be available only after statutory provisions are enacted to establish the conditions that the pre-payment must comply with in order to comport with this constitutional amendment.

SECTION 2. Article VII, section 6, of the Constitution of the State of Hawaii is amended to read as follows:

"**Section 6.** Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall ~~provide~~:

- (1) Provide for a tax refund or tax credit to the taxpayers of the State, ~~[or make]~~ as provided by law;
- (2) Make a deposit into one or more funds, as provided by law, which shall serve as temporary supplemental sources of funding for the State in times of an emergency, economic downturn, or unforeseen reduction in revenue, as provided by law~~[-]; or~~
- (3) Appropriate general funds for the pre-payment of either or both of the following, as provided by law:
  - (A) Debt service for general obligation bonds issued by the State;
  - or
  - (B) Pension or other post-employment benefit liabilities accrued for state employees.

For the purpose of this paragraph, "pre-payment" means a payment for a fiscal year in excess of the minimum payment required for that fiscal year by bond covenant or law."

SECTION 3. The question to be printed on the ballot shall be as follows:

## PROPOSED CONSTITUTIONAL AMENDMENT

“Shall the legislature be provided, when the state general fund balance at the close of each of two successive fiscal years exceeds five per cent of the general fund revenues for each of the two fiscal years, the additional alternatives of appropriating general funds for the pre-payment of either or both of the following:

- (1) Debt service for general obligation bonds issued by the State;  
or
- (2) Pension or other post-employment benefit liabilities accrued for state employees?”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

## **SECOND SPECIAL SESSION OF 2016**



**Session Laws of Hawaii  
Passed By The  
Twenty-Eighth State Legislature  
Second Special Session  
2016**

**ACT 1**

S.B. NO. 2077

A Bill for an Act Relating to Separation Benefits.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

SECTION 1. The purpose of this part is to provide options to assist public employees who may be displaced through the privatization or closure of a Hawaii health systems corporation facility and reduce the need for layoffs. Specifically, this part authorizes the Hawaii health systems corporation to offer a severance or a special retirement benefit to an employee who elects to separate from service when the employee's position is identified for abolishment or when the employee is directly affected by a reduction-in-force or workforce restructuring plan, including privatization.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER  
SEPARATION BENEFITS**

**§ -1 Definitions.** For the purposes of this chapter:

"Actuarial present value" means the difference in value between a member's benefit reflecting termination of service without the special retirement provision and the value of the member's benefit reflecting the special retirement benefit.

"Agency" or "attached agency" means the Hawaii health systems corporation.

"Directly affected" refers to when an employee receives official reduction-in-force notification of displacement from the employee's position because of a senior employee exercising reduction-in-force rights, or because the employee's position is part of a workforce restructuring plan, including privatization.

"Employee" means an individual:

- (1) Employed by the state government or an attached agency in a position subject to chapters 88 and 89;

- (2) Whose position has been identified for abolishment or directly affected because of a reduction-in-force or workforce restructuring plan, including privatization; and
- (3) Whose employment is subject to Act 103, Session Laws of Hawaii 2015.

"Exclusive representative" has the same meaning as defined in section 89-2.

"Public employer" has the same meaning as defined in section 89-2.

"Reduction-in-force" includes layoffs under chapter 89.

**§ -2 Voluntary severance benefit.** (a) Any employee entitled to reduction-in-force rights under chapter 89 and who receives official notification that the employee's position is being abolished or who is directly affected by a reduction-in-force or workforce restructuring plan, including privatization, may elect to receive a voluntary severance benefit provided under this section in lieu of exercising any reduction-in-force rights under chapter 89 and in lieu of receiving any special retirement benefit under section -3.

(b) A one-time lump sum cash bonus severance benefit shall be calculated at five per cent of the employee's base salary for every year of service worked, not to exceed ten years, and shall not exceed fifty per cent of the employee's annual base salary.

For the purposes of this section, "annual base salary" means an employee's annual salary for the position from which the employee is to be separated, excluding all other forms of compensation paid or accrued, whether a bonus, allowance, differential, or value of leave or compensatory time off credits. Compensation excluded from base salary includes shortage category differential, night shift differential, overtime, compensatory time off credits, vacation or sick leave credits, and workers' compensation benefits.

(c) A severance benefit shall be in addition to any payment owing to the employee upon separation from service, including accumulated unused vacation allowances or compensatory time credits.

(d) All severance benefits paid under this section shall be subject to applicable state income tax laws and rules.

(e) A severance benefit provided under this section shall not be considered as a part of a discharged employee's salary, service credit, or a cost item as defined in section 89-2 when calculating retirement benefits or sick and vacation leave.

**§ -3 Special retirement benefit.** (a) Notwithstanding section 88-99 or any other law to the contrary, the employees' retirement system may provide, regardless of whether the actuarial value of the system's assets is one hundred per cent of the system's actuarial accrued liability, the benefits authorized under this section. Any employee who receives official notification that the employee's position is being abolished or who is directly affected by a reduction-in-force or workforce restructuring plan, including privatization, proposed by an agency may elect, if the employee is eligible to receive benefits from the employees' retirement system and meets any of the criteria specified in subsection (c), the special retirement benefit provided by this section in lieu of exercising any reduction-in-force rights under chapter 89 and in lieu of receiving any severance benefits under section -2. To receive the special retirement benefit offered under this section, the employee shall comply with the application and time frame requirements specified in subsection (b).

(b) Any employee who elects to retire and receive the special retirement benefit under this section shall notify the employee's employing agency and file

a formal application for retirement with the employees' retirement system not less than thirty days or more than one hundred fifty days prior to the date of retirement.

(c) Notwithstanding the age and length of service requirements of sections 88-73, 88-281, and 88-331, an employee shall qualify for the special retirement benefit if, on the employee's retirement date, the employee meets any one of the following criteria:

- (1) Has at least five years of credited service as a contributory class A or B member and is at least fifty years of age;
- (2) Has at least twenty years of credited service as a contributory class A or B member, irrespective of age;
- (3) Has at least ten years of credited service as a noncontributory class C member and is at least fifty-seven years of age;
- (4) Has at least twenty-five years of credited service as a noncontributory class C member, irrespective of age;
- (5) A class H member who became a member prior to July 1, 2012, has at least five years of credited service and is at least fifty-seven years of age;
- (6) A class H member who became a member prior to July 1, 2012, and has at least twenty-five years of credited service, irrespective of age;
- (7) A class H member who became a member after June 30, 2012, has at least ten years of credited service and is at least sixty years of age; or
- (8) A class H member who became a member after June 30, 2012, has at least twenty-five years of credited service and is at least fifty-five years of age.

(d) Any employee who exercises the option of the special retirement benefit under this section because the employee does not qualify with respect to the age and length of service requirements under section 88-73, 88-281, or 88-331, to receive a retirement benefit without penalty, shall not have the retirement benefit reduced in accordance with the actuarial formula normally used by the employees' retirement system for the calculation of early retirement benefits.

(e) The head of the agency shall transmit a list of employees who elected and received the special retirement benefit to the board of trustees of the employees' retirement system not less than thirty days but not more than one hundred fifty days prior to the employee's retirement date. The head of the agency shall certify that the employees on the list have in fact selected the special retirement benefit in lieu of receiving the severance benefit under section -2 and exercising any reduction-in-force rights under chapter 89.

(f) The board of trustees of the employees' retirement system shall make payments with respect to all eligible employees who retire pursuant to this section. The board shall determine the portion of the additional actuarial present value of benefits to be charged to the State based upon retirements authorized under this section. If necessary, the State shall make additional payments to the employees' retirement system in the amounts required to amortize the additional actuarial present value of benefits over a period of five years. The unfunded actuarial present values of benefits payable under this section shall be considered part of the unfunded accrued liability of the employees' retirement system under sections 88-122 and 88-123.

**§ -4 Restrictions.** No severance benefit or special retirement benefit under this chapter shall be payable to an employee discharged for lawful disciplinary reasons or for reasons other than a reduction-in-force or workforce restructuring plan.

§ -5 **Reemployment.** Any employee who has received either a severance benefit or a special retirement benefit under this chapter and returns to public service within two years as an employee or contractor shall repay the severance benefit or the special retirement benefit to the State or the employees' retirement system, as the case may be, within thirty days of reemployment with a public employer.

§ -6 **Payments; lapse of unexpended funds.** After payments of all costs associated with the severance benefits and special retirement benefits, the public employer's remaining payroll balances shall not be expended for any purpose and shall be lapsed into the appropriate fund.

§ -7 **Reporting requirements; reduction in personnel counts.** The head of the agency that provided benefits under this chapter shall:

- (1) Transmit a report of every position identified for abolishment and vacated under this chapter to the directors of finance and human resources development, who shall abolish these positions from the appropriate budget and personnel files. The governor shall report this information to the legislature no later than twenty days prior to the convening of each regular session beginning with the regular session of 2017;
- (2) Reduce its personnel count by every position identified for abolishment and vacated under this chapter, whether the former incumbent vacated the position as a result of accepting a severance benefit or special retirement benefit authorized under this chapter or of exercising reduction-in-force rights; and
- (3) Transmit a list that includes each employee who received benefits under this chapter and the benefit received by the employee to the directors of finance and human resources development.

§ -8 **Guidelines; development and administration.** The departments of human resources development and budget and finance shall develop and administer guidelines and time frames with the exclusive representatives of affected public employees to implement the voluntary severance benefits and special retirement benefits under this chapter. The department of human resources development, the department of labor and industrial relations, the employees' retirement system, and the Hawaii employer-union health benefits trust fund shall work cooperatively to ensure that briefings are provided prior to the implementation of any workforce restructuring plan to educate the employees whose positions are being abolished or who are directly affected by a reduction-in-force or workforce restructuring plan.

The department of human resources development and the department of budget and finance shall report to the legislature on any restructuring activities initiated as a consequence of this chapter no later than twenty days prior to the convening of each regular session beginning with the regular session of 2017.

The report shall include a description of the abolished positions, an explanation as to how the new workforce structure, including resulting service delivery changes, will more efficiently serve the needs of the agency's clients, the cost of the benefit per participant, and the total cost to the State.

§ -9 **Matching funds.** The governor may provide funds to obtain matching federal moneys to retrain employees in the state executive branch who separated from service under this chapter.

§ -10 **Review by employee.** Employees offered a severance benefit or a special retirement benefit shall be given sufficient time to make an informed decision from the date of receiving accurate and complete information about the offer."

## PART II

**SECTION 3.** State contributions; Hawaii health system corporation employees hired after June 30, 1996, and retired. (a) This section shall apply to state contributions to the Hawaii employer-union health benefits trust fund for Hawaii health systems corporation employees hired after June 30, 1996, and who were separated from service as a result of Act 103, Session Laws of Hawaii 2015.

(b) The State, through the department of budget and finance, shall pay to the Hawaii employer-union health benefits trust fund:

- (1) For retired employees based on the self plan with at least nine years but fewer than twelve years of service, a monthly contribution equal to one-half of the base medicare or non-medicare monthly contribution set forth under section 87A-33(b), Hawaii Revised Statutes; provided that retired employees who were hired after June 30, 1996, but before July 1, 2001, with dependent-beneficiaries, as that term is defined in section 87A-1, Hawaii Revised Statutes, shall be eligible for a monthly contribution equal to one-half of the base medicare or non-medicare monthly contribution for two-party or family plans, as applicable, set forth in section 87A-33(b), Hawaii Revised Statutes;
- (2) For retired employees based on the self plan with at least twelve years but fewer than twenty years of service, a monthly contribution equal to seventy-five per cent of the base medicare or non-medicare monthly contribution set forth under section 87A-33(b), Hawaii Revised Statutes; provided that retired employees who were hired after June 30, 1996, but before July 1, 2001, with dependent-beneficiaries, as that term is defined in section 87A-1, Hawaii Revised Statutes, shall be eligible for a monthly contribution equal to seventy-five per cent of the base medicare or non-medicare monthly contribution for two-party or family plans, as applicable, set forth in section 87A-33(b), Hawaii Revised Statutes;
- (3) For retired employees based on the self plan with twenty or more years of service, a monthly contribution equal to one hundred per cent of the base medicare or non-medicare monthly contribution set forth under section 87A-33(b), Hawaii Revised Statutes; provided that retired employees who were hired after June 30, 1996, but before July 1, 2001, with dependent-beneficiaries, as that term is defined in section 87A-1, Hawaii Revised Statutes, shall be eligible for a monthly contribution equal to one hundred per cent of the base medicare or non-medicare monthly contribution for two-party or family plans, as applicable, set forth in section 87A-33(b), Hawaii Revised Statutes; and
- (4) Upon the death of a retired employee hired after June 30, 1996, but before July 1, 2001, for the dependent-beneficiary who becomes eligible as an employee-beneficiary, a monthly contribution equal to paragraphs (1), (2), or (3), as applicable; and upon the death of a retired employee hired after June 30, 2001, for the dependent-beneficiary who becomes eligible as an employee-beneficiary, a

monthly contribution equal to one-half of paragraphs (1), (2), or (3), as applicable.

**PART III**

**SECTION 4.** If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 5.** This Act shall take effect upon its approval, and shall apply to employees of the Hawaii health systems corporation who are separated from service as a consequence of Act 103, Session Laws of Hawaii 2015.

(Vetoed by Governor and veto overridden by Legislature on July 20, 2016.)

**COMMITTEE REPORTS ON BILLS ENACTED  
AND PROPOSED CONSTITUTIONAL AMENDMENT**

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**TABLES SHOWING EFFECT OF ACTS**

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## PROPOSED CONSTITUTIONAL AMENDMENT

1209-16, 1613-16

1. Became law without the Governor's signature.
2. Vetoed on July 11, 2016 and veto overridden on July 20, 2016.
3. See also Senate Floor Amendment 6 and House Floor Amendment 1.

# TABLES SHOWING EFFECT OF ACTS

## Twenty-Eighth State Legislature 2016 Regular and Second Special Sessions\*

Key: Am = Amended \_\_\_\_\_ = Section number  
N = New to be assigned in  
R = Repealed HRS Supplement

\*The Second Special Session of 2016 did not affect any sections of the Hawaii Revised Statutes.

### A. SECTIONS OF HAWAII REVISED STATUTES (HRS) AFFECTED

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